STATE OF MICHIGAN

IN THE SUPREME COURT

Appeal from the Court of Appeals
Panel: O'Connell, P.J., and White and Smolenski, JJ.

THE TITLE OFFICE, INC.,
a Michigan Corporation,

Plaintiff-Appellee,

v

ALLEGAN COUNTY TREASURER, BRANCH COUNTY TREASURER, HILLSDALE COUNTY TREASURER, IONIA COUNTY TREASURER, JACKSON COUNTY TREASURER, KALAMAZOO COUNTY TREASURER, LIVINGSTON COUNTY TREASURER,

Defendants-Appellants

and

VAN BUREN COUNTY TREASURER,

Defendant.
_____/

Docket Nos.: 121077, 121078
121177, 121178

Court of Appeals Case No. 225377

Circuit Court Case No. 99-017173-CZ

BRIEF ON APPEAL - APPELLEE

ORAL ARGUMENT REQUESTED

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STATEMENT OF JURISDICTION

Appellee agrees with Appellants' statement of the basis for the Court's jurisdiction over this appeal.

STATEMENT OF QUESTIONS PRESENTED

1. Does the Transcripts and Abstracts of Records Act, MCL § 48.101(1), MSA § 5.711(1), explicitly establish a fee for a copy of the "public record" requested by The Title Office when the "public record", as that term is defined by the Michigan Freedom of Information Act, MCL § 15.232(e) and (h), MSA § 4.1801(2)(e), is a magnetic tape that contains all of the Counties' property tax records in electronic data files?

The trial court answers: "No."

The Court of Appeals answers: "No."

Appellee answers: "No."

Appellants answer: "Yes."

2. Do the terms "transcript of any paper or record", as used in the introductory phrase of the Transcripts and Abstracts of Records Act, MCL § 48.101(1), MSA § 5.711(1), explicitly describe a computer tape that contains electronic data and, if so, is the "public record" requested by The Title Office an abstract, list of state tax lands, copy of any paper or document, or certificate for which the Act explicitly establishes a fee?

The trial court answers: "No."

The Court of Appeals answers: "No."

Appellee answers: "No."

Appellants answer: "Yes."

STANDARD OF REVIEW

Appellee agrees with Appellants' statement of the standard of review.

INTRODUCTION

This case arises from the Appellant County Treasurers' refusal to charge Appellee, The Title Office, the incremental cost of copying property tax records that consist of electronic data files stored on the Treasurers' computers. The parties agree that, under the Michigan Freedom of Information Act, MCL § 15.231 *et seq.*, MSA § 4.1801(1) *et seq.* ("FOIA"), the electronic data files are public records and that the Treasurers are required to charge The Title Office the incremental cost of copying these public records unless another statute explicitly sets forth a different fee for them. The incremental cost of copying the requested public records is, at most, a few hundred dollars. The Treasurers, however, insist on charging The Title Office as if it had requested, for each parcel of property in the county, a transcript of an abstract of taxes under the Transcript and Abstract of Records Act, MCL § 48.101(1), MSA § 5.711(1) ("TARA"). Under the Treasurers' contrived interpretation of The Title Office's FOIA request, The Title Office would be required to pay a "fee" for the requested records that would range from several thousand dollars to several hundred thousand dollars, depending upon the size of the county. [1]

The Livingston County Circuit Court granted The Title Office's Motion for Summary Disposition, holding that, under FOIA, the Treasurers must charge The Title Office the incremental cost of copying the requested property tax records. The Court of Appeals' panel below favored the Treasurers' position, but affirmed under MCR 7.215(I)(1) because a prior appellate court decision in favor of The Title Office, *Oakland County Treasurer v The Title Office*, 245 Mich App 196, 627 NW2d 317 (2001), was controlling. A request to convene a

[1] The Title Office could not afford to pay charges of this magnitude, which would recur on an annual basis for each county from which property records were requested. If the Treasurers prevail, The Title Office will have no choice but to abandon its requests. Its hopes of providing a free or relatively cost free database for realtors and others interested in property transactions to efficiently obtain needed information in real time would be dashed.

special panel to resolve apparent differences within the Court of Appeals was denied. This appeal followed. Because FOIA governs the fees that a county treasurer may charge for providing a copy of the public records requested by the Title Office, this Court should embrace the decision in *Oakland County Treasurer, supra,* and affirm the result reached below.

COUNTER-STATEMENT OF FACTS

Counties and other local units of government are required by law to maintain property tax records, and they do so as part of their ordinary administration of property taxes. *See generally* MCL § 211.1 *et seq.*, MSA § 7.1 *et seq.* Each city and township within a county typically collects and maintains property tax information for parcels located within its local unit of government. These property tax records are then provided to the county treasurer. Today, county treasurers often enter the property tax information that they receive from local units of government into a computerized "Delinquent Tax System" (in fact, the information is often received electronically or in an electronic format). The Delinquent Tax System is updated at least annually, or as delinquent taxes are paid. The collection and maintenance of property tax records is mandated by statute and will continue unabated regardless of the outcome of this appeal.

Accordingly, the only practical question raised by this appeal is whether a complete copy of the county treasurer's electronic database of property tax records, once compiled by the county pursuant to its statutory duty, may be obtained by a member of the public under FOIA for the incremental cost of making a copy. Ironically, there is no question that a member of the public may obtain this very same information directly from local units of government (just as the county does) at the incremental cost of copying under FOIA because TARA applies, if at all, only to the county treasurers. But obtaining property tax records from local units of government presents difficulties. The sheer number of local entities in Michigan

and differences in the way in which they maintain their property tax data tends to defeat The Title Office's purpose: to create a no cost or low cost venue for persons interested in property transactions to obtain certain types of information about the property.

A. *The Title Office v Van Buren County Treasurer, et al.*

The Title Office issued FOIA requests to Allegan, Branch, Hillsdale, Ionia, Jackson, Kalamazoo, Livingston and Van Buren Counties on or about August 14, 1998. These FOIA requests were nearly identical, and each requested "an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records" of the county.[2] The Title Office requested that the records be exported to computer diskettes but stated that, if the records could not be exported, then The Title Office would accept a copy of "the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records" of the county. Each treasurer responded by agreeing to provide the public records requested but only if The Title Office first agreed to pay a fee of 25 cents for each property description or delinquent tax record contained in the electronic data files or the back up tape.

The parties do not dispute the fact that the cost of copying the requested computer records under the incremental cost provisions of FOIA would be at most a few hundred dollars. The parties also do not dispute the fact that the fees sought by the Treasurers, purportedly under TARA, would generally total tens of thousands of dollars, the exact amount depending upon the number of distinct property descriptions and delinquent tax entries contained in the electronic data produced by each county. For example, the Allegan County Treasurer demanded a fee of $17,332.25, while the Oakland County Treasurer had formerly sought a fee of nearly $438,000.

[2] The Title Office's FOIA requests and the responses it received are attached to the brief submitted by Attorney Bonnie G. Toskey on behalf of the Treasurers of Allegan, Branch, Hillsdale, Ionia, Jackson, Kalamazoo and Livingston Counties. For ease of reference and as exemplars, a copy of The Title Office's FOIA request to Allegan County, and the response it received, are also attached to this brief as Exhibits A and B, respectively.

Compare Exhibit B *and Oakland County Treasurer*, 245 Mich App at 197, 627 NW2d at 318. Because of the parties' differences over the Treasurers' proposed charges for the requested public records, litigation ensued.

The Title Office and the Livingston County Treasurer filed separate lawsuits in the Ottawa County and Livingston County Circuit Courts, respectively. *The Title Office v Van Buren County Treasurer*, 249 Mich App 322, 325, 643 NW2d 244, 247 (2002). Those cases were consolidated in the Livingston County Circuit Court, where The Title Office's motion for summary disposition under MCR 2.116(C)(10) was granted. *Id.* In holding that TARA did not apply to the public record requested by The Title Office, the Circuit Court observed that The Title Office had requested a computer record, and that nothing in TARA "contemplates making a computerized copy of the records." (Slip Op at 3.)[3] The Court further reasoned that, although TARA "designates the fee for *abstracting or transcribing a portion of the record*, plaintiff did not request a transcription or abstraction." *Id (emphasis added)*. Thus, the Court ordered each of the Treasurers to provide the requested records for the incremental cost of copying them. The Treasurers appealed.

On April 3, 2001, while the Treasurers' appeal was pending, the Court of Appeals decided *Oakland County Treasurer, supra.* The *Oakland County* Court ruled that exceptions to the incremental cost provisions of FOIA must be explicit, and that "no explicit language in . . . [TARA] provides fees for electronic copies of delinquent tax records." 245 Mich App at 204, 627 NW2d at 321. The Court noted that, under FOIA, the Oakland County Treasurer is required to provide the public record requested, not just the information contained therein. 245 Mich App at 202-203, 627 NW2d at 321. Although TARA requires fees for the preparation of tax certificates, abstracts, transcripts and paper copies, these are not the public records requested by

[3] A copy of Livingston County Circuit Court's slip opinion begins at p. A-6 of Appellants' Appendix.

The Title Office. *Id.* Because TARA does not set a fee for copies of electronic data files, the Court concluded, the incremental cost provisions of FOIA controlled.

On January 18, 2002, the Court of Appeals in this case affirmed the Livingston County Circuit Court's decision granting summary disposition in favor of The Title Office. *Van Buren County Treasurer, supra.* In reaching its decision, the *Van Buren County* Court followed the *Oakland County* Court's decision and held that TARA does not govern the fee for providing the public records requested by The Title Office. Two judges on the *Van Buren County* Court panel, however, expressed disagreement with the *Oakland County* Court's decision, and requested that the Court of Appeals convene a special panel to address the disagreement. On February 8, 2002, the Court of Appeals denied the request to convene a special panel after a majority of the Court of Appeals' judges polled determined that a special panel was not warranted. *Title Office, Inc v Van Buren County Treasurer*, 249 Mich App 805; 642 NW2d 705. This appeal followed.

B. *Other Cases Involving Identical Facts and Issues*

The issues raised in this appeal have also been considered by two other Circuit Courts and by one other panel of the Michigan Court of Appeals. In *The Title Office, Inc v Ingham County Treasurer*, Case No 97-28553-CZ (Ottawa County Circuit Court), Judge Edward Post held that the incremental cost provisions of FOIA governed The Title Office's request for electronic copies of Ingham County's property tax data.[4] Judge Post found that the fee provisions in TARA were intended to "cover the costs of going to the record and abstracting a portion of the record or manually transcribing a portion of the record for the benefit on one seeking the record." *Post Ruling* at 18. In other words, TARA was intended to compensate treasurers for "providing copies of the records, not for the cost of collecting and maintaining the

[4] A copy of the Transcript of Argument and Opinion (hereinafter "*Post Ruling*") is attached as Exhibit C.

records." *Id.* In support of this reasoning, Judge Post noted that Subsection 5 of TARA permits a charter county with a population of more than 2 million to charge a different fee for the services contemplated by the statute, but further provides that such a county "shall not impose a fee which is greater than the cost of the service for which the fee is charged." *Id.*; *see* MCL § 48.101(5), MSA § 5.711(5).[5] Judge Post also observed that, had the Legislature intended TARA to present a profit center or an opportunity for the treasurer to obtain a windfall, it would have provided a fee for the inspection of the records as well. *Post Ruling* at 18-19. It does not. Consequently, the incremental cost provisions of FOIA control.

In *Washtenaw County Treasurer v The Title Office*, No 99-10618-CZ, the Washtenaw County Circuit Court held that the incremental cost provisions of FOIA controlled The Title Office's FOIA request for electronic property tax records, but in doing so it disagreed with the Court of Appeals' decision in *Oakland County Treasurer, supra*. On appeal, a panel of the Court of Appeals granted The Title Office's Motion to Affirm. The Washtenaw County Treasurer then filed a Delayed Application for Leave to Appeal to this Court. *See* Supreme Court Docket No. 120801. On April 9, 2003, this Court ordered that the Washtenaw County Treasurer's application be held in abeyance pending its decision in this case.

ARGUMENT

The Michigan FOIA is a pro-disclosure statute that embraces a powerful public policy: public records gathered at taxpayer expense should generally be available to the public at the incremental cost of copying them. *See* MCL § 15.231, MSA § 4.1801(1). Indeed, one is hard pressed to find instances in which public records are made available for inspection and copying only at a price that confers a profit upon the government. The Treasurers are critical of the fact

[5] A copy of the complete statute is attached as Exhibit D. The Treasurers nowhere seek to explain the anomaly that their interpretation of TARA presents: under Subsection 5, certain counties may produce the public records requested by The Title Office at cost while others are permitted to charge a fee that confers a windfall.

that The Title Office wishes to use the county property tax records to provide a service, possibly for a fee, apparently oblivious to the reality that The Detroit News and The Detroit Free Press are also engaged in profit-making ventures. The Treasurers also fail to acknowledge that the title companies, with their expertise in property transactions, are likely to be among the first to identify errors or incompetence in the Treasurers' record keeping practices – if the title companies are permitted to access the Treasurers' complete records. Under FOIA, The Title Office is indisputably on equal footing with the media. FOIA defines broadly the persons eligible to make a request for public records and expressly provides that the fees charged under FOIA "shall be uniform and not dependent upon the identity of the requesting person." MCL § 15.232 (c) and 15.234(3), MSA § 4.1801(2) and (4).

As a general matter, FOIA entitles any person, not incarcerated, to obtain a copy of a public record at the incremental cost to the government of making a copy. The term "public record" is defined to mean "a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created." MCL § 15.232(e), MSA § 4.1801(2)(e). The term "writing" is further defined to include not only handwritten, typewritten and printed material, but all "means of recording or retaining meaningful content." MCL § 15.232(h), MSA § 4.1801(2)(h). As demonstrated below, similar or even the same information may appear in several different public records. Further, in contrast to TARA, FOIA "does not require a public body to make a compilation, summary, or report of information." MCL § 15.233(4), MSA § 4.1801(3). Consequently, the first step in any analysis of a FOIA request is to identify the particular public record that is requested and to determine whether it presently exists.

Once the requested public record is identified, FOIA provides that a copy of the public record must be provided to the requestor for the incremental cost of making a copy unless the public record was "prepared under an act or statute *specifically* authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise *specifically* provided by an act or statute." MCL § 15.234(1) and (4), MSA § 4.1801(4)(emphasis added). The Title Office contends that the "public record" it requested from the Treasurers was electronic data files containing all of the counties' property tax records or, alternatively, a magnetic back-up tape containing the electronic files. The Title Office further contends that these public records existed at the time it submitted its FOIA requests, and that they cannot be properly characterized as "transcripts" of "abstracts" of taxes under TARA.

I. THE PUBLIC RECORD REQUESTED BY THE TITLE OFFICE IS A MAGNETIC TAPE CONTAINING ELECTRONIC DATA FILES, NOT A TRANSCRIPT OF AN ABSTRACT OF TAXES

In this case, the "public record" requested by The Title Office is a magnetic tape of electronic data files that contains all of the counties' property tax information. TARA does not explicitly authorize the sale of magnetic tapes nor does it explicitly provide a fee for making a copy of a magnetic tape. Rather, TARA sets forth a fee for having a county treasurer make a transcript of an abstract of taxes from a larger record. The fact that a treasurer can manipulate and format parts of the electronic data files requested by The Title Office to create an abstract of taxes does not mean that the "public record" requested by The Title Office is an abstract of taxes, as required to invoke the fee provisions of TARA. The Treasurers must produce a copy of the public record requested; they are not allowed to manipulate or reformat the public record at all, let alone in a way that circumvents the incremental cost provisions of FOIA.

Under well-established FOIA jurisprudence, a "public record" maintained in a particular format is *not* synonymous with the same information kept in another format. A

request for a computer tape (a specific "public record") is substantively different than a request for a series of written tax abstracts. This is true even if the computer tape contains the very same information as the written abstracts. Michigan law under FOIA clearly provides that a "public record" refers to the format of the requested item rather than the content of the requested item. *Farrell v City of Detroit*, 209 Mich App 7; 530 NW2d 105 (1995).

In *Farrell*, a reporter for The Detroit News made a FOIA request to the City of Detroit for a copy of a computer tape containing a list of Detroit taxpayers. 209 Mich App at 9, 530 NW2d at 107. The City offered to supply The News with the requested information in the form of a computer printout or other hard copy. The News filed a claim under FOIA, arguing that the computer records should have been produced. The *Farrell* court agreed, holding that the "public record" requested by The News was the actual magnetic tape. 209 Mich App at 14, 530 NW2d at 109. The court reasoned that FOIA gives every person the right to

> inspect, copy, or receive copies of a *public record*, not merely to obtain the 'information' contained in a public record in any form in which the public body sees fit to release it. A paper printout is simply not a 'copy' of a magnetic tape.

Id., *citing Payne v Grand Rapids Police Chief*, 178 Mich App 193, 203; 443 NW2d 481 (1989) (emphasis in original).

The *Farrell* court rejected the City's attempt to rely upon *Dismukes v Dep't of Interior*, 603 F Supp 760 (DDC 1984), a decision under the federal FOIA, which stands for the proposition that a requestor of information under the federal FOIA has no right to specify the format in which the information is produced. The *Farrell* court distinguished *Dismukes* on the basis that the federal FOIA entitles a requestor to the underlying information in a public record, not the record itself. The Michigan FOIA, by contrast, expressly mandates the disclosure of "public records," not "public information." For this reason, the *Farrell* court rejected the federal

court's decision in *Dismukes* and held that the "defendant is required to provide the 'public record' plaintiffs request, not just the information contained therein." 209 Mich App at 14; 530 NW2d at 109.

Many courts in other jurisdictions, operating under similar versions of FOIA, agree with the conclusion reached in *Farrell*, namely, that information maintained in an electronic format constitutes a distinct public record. For example, in *AFSCME v County of Cook*, 555 NE 2d 361 (Ill 1990), the Illinois Supreme Court held that computer tapes maintained by Cook County were public records subject to inspection and copying under the Illinois FOIA. *Id.* at 366. In that case, plaintiffs wanted certain information in the form of a computer tape. The County supplied a printout instead. The court stated that, "upon receiving a proper request for a copy of a computer tape, defendants were obligated either to comply or state clearly upon what exception it [sic] was relying to avoid compliance." *Id.* at 364.

Like the City of Detroit, Cook County relied upon *Dismukes* when it supplied plaintiffs with the requested information in hard copy form instead of on a computer tape. Like the *Farrell* court, the *AFSCME* court rejected the *Dismukes* decision because

> the Illinois Act requires that "public records," which include computer tapes, be made available. That is, the Illinois Act is not solely concerned with content, it also requires that information be made available *in the form in which it is normally kept.*

Id. at 365-366. Under Illinois law, the court found, a government agency that receives a request for a specific record must comply with the request or state why it cannot comply.

New York law also comports with the *Farrell* decision. In *Brownstone Publishers, Inc v New York City Dep't of Buildings*, 550 NYS2d 564 (Sup Ct 1990), *aff'd* 560 NYS2d 642 (NY App Div 1990), plaintiff requested information from the Department of Buildings (DOB) maintained in computerized files. Plaintiff intended to sell this information.

Plaintiff requested and insisted upon a computer copy of the information, which would take a few hours to create and involved negligible costs. Although DOB acknowledged that the information must be made available under the New York FOIA, it sought to make the data available in hard copy form, which would cost roughly $10,000 in paper and take five to six weeks to print. The DOB relied upon *Dismukes, supra*, but the New York court rejected the *Dismukes* rationale. It found that New York's FOIA required access to nonexempt "records," which expressly includes computer tapes or discs, and ordered DOB to provide a copy of its electronic records on a computer tape as requested. The court further found that its conclusion was not altered by the fact that plaintiff intended the information for commercial purposes because access to public information is not contingent upon economic motivations. *Id.*

Finally, in *Athens County Property Owners Assoc, Inc v City of Athens*, 619 NE2d 437 (Ohio App 1992), the Ohio Court of Appeals held that the public is entitled to electronic copies of public records stored in an electronic medium. Plaintiff sought certain rental property records, and requested that the information be provided on computer diskettes rather than in hard copy. Although the City acknowledged that plaintiff was entitled to the records, it insisted upon providing the records in hard copy format. The court found that the plaintiffs were entitled to the information on computer diskettes because the city compiled and maintained its records electronically. The Court of Appeals reasoned that

> [A] person does not come–like a serf–hat in hand, seeking permission of the lord to have access to public records. Access to public records is a matter of right. . . The law does not require members of the public to exhaust their energy and ingenuity to gather information which is already compiled and organized in a document created by public officials at public expense. . . The record shows that the records are normally stored on an electronic medium, that those records are compiled using taxpayer dollars, on equipment purchased with taxpayer dollars. The record also shows that the requested information consists of over six hundred records and that the

> [plaintiffs] would have to go to needless expense to replicate these records from hard copy.

Id. at 439 (citations omitted). The Court then affirmed the trial court's order allowing plaintiffs to obtain the computerized records.

In this case, there is no dispute that the particular "public record" requested by The Title Office is a magnetic computer tape subject to disclosure under Michigan's FOIA. The fact that information contained on these magnetic computer tapes can be manipulated and formatted, through software owned by the Treasurers, into other types of records that contain some of the same information is immaterial.[6] The issue presented is not whether subsets of the data files requested by The Title Office may be drawn upon to create abstracts for which the Treasurers may charge a fee under TARA. Rather, the issue is whether TARA explicitly prescribes a fee for a copy of a magnetic tape of electronic data files that contains all of the counties' property tax information. Plainly, it does not.

II. TARA APPLIES TO WRITTEN TRANSCRIPTS OF ABSTRACTS OR SUMMARIES DRAWN FROM A LARGER PUBLIC RECORD, NOT MAGNETIC TAPES CONTAINING ELECTRONIC DATA

TARA prescribes the fees that a county treasurer must charge for a "transcript of any paper or record on file." MCL § 48.101(1), MSA § 5.711(1). More specifically, the statute establishes a fee for a "transcript" of certain types of abstracts, lists, records and certificates delineated in the statute. TARA does not purport to set a fee for providing any service other than preparing an abstract, a list of state tax lands or bids, or a certificate, and it does not purport to set a fee for copying anything other than a "paper or document." *See* MCL § 48.101(1)(d), MSA

[6] The Treasurers' reliance on the Reproduction of Public Records Act for the proposition that an electronic reproduction "has the same force and effect as the original paper record" is misplaced here. This statute provides only that a document copied under the Records Media Act has the same effect as its original *for the purpose of admissibility* in evidence. *See* MCL 691.1103; MSA 3.993(3). It has no application to the present controversy because it nowhere purports to create an explicit exception to the incremental cost provisions of FOIA.

§ 5.711(1)(d). None of these provisions purports, explicitly or otherwise, to establish a fee for a copy of a magnetic tape that contains electronic data files.

The relevant portions of TARA provide as follows:

> (1) A county treasurer shall make upon request a transcript of any paper or record on file in the treasurer's office for the following fees:
>
> (a) For an abstract of taxes on any description of land, 25 cents for each year covered by the abstract.
>
> (b) For an abstract with statement of name and residence of taxpayers, 25 cents per year for each description of land covered by the abstract.
>
> (c) For list of state tax lands or state bids, 25 cents for each description of land on the list.
>
> (d) For 1 copy of any paper or document at the rate of 25 cents per 100 words.
>
> (e) For each certificate, 25 cents.
>
> * * *
>
> (5) A charter county with a population of more than 2,000,000 may impose by ordinance a different amount for the fees prescribed by this section. A charter county shall not impose a fee which is greater than the cost of the service for which the fee is charged.

MCL § 48.101(1), MSA § 5.711(1).

The term "transcript" in TARA plainly refers to written document which, in most cases, will contain an abstract or summary of property tax information drawn from a more inclusive record. A review of dictionaries from the time the statute was enacted through the present demonstrates that the word "transcript" is most commonly defined as "a written copy."[7]

[7] *See, e.g.*, Merriam Webster's Collegiate Dictionary (10th ed 1996); Webster's New International Dictionary of the English Language (C & C Merriam Co 1921); Webster's International Dictionary (1890); Noah Webster, An American Dictionary of the English Language (1871). Relevant excerpts from the dictionaries cited in this brief are attached as Exhibit E.

As the Treasurers' concede, Webster's International Dictionary (1890) defines the word "transcript" as follows:

> 1. That which has been transcribed: a writing or composition consisting of the same words as the original; a written copy.
>
> 2. A copy of any kind; an imitation.

Virtually the same definition is given in Noah Webster's American Dictionary of the English Language (G & C Merriam 1871), where "transcript" is defined as

> 1. That which has been transcribed; a writing made from and according to an original; a writing or composition consisting of the same words with the original; a written copy.
>
> 2. A copy of any kind; an imitation.

Significantly, this same dictionary defines "copy" as "[a] *writing like another writing*; a transcript from an original; or a book printed according to the original." *Id.* The Treasurers have offered no reason to believe that the Legislature intended the word "transcript" in the sense of the second definition given instead of the first, but even if it did, the Legislature's understanding of the word "copy" must also be considered in context.

A similar teaching is provided by The Standard Dictionary of the English Language (Funk & Wagnall's Co 1899). It defines "transcript" as

> 1. A copy made directly from an original; specifically, in law, a copy of a judicial record.
>
> 2. Any copy of a writing made by writing.
>
> 3. A copy of any sort; an imitation.

"Copy" is defined in relevant part as: "[a] reproduction or imitation, as of a writing, printing, drawing, painting, or other work of art, so as to have another or others similar to the original, duplicate." The word "duplicate" is defined as follows:

1. A counterpart, a paper containing the same thing as another, and having the force of an original; as, an agreement signed in duplicate.

2. An issue of an instrument or document to replace one lost or destroyed."

Thus, a close examination of the definition of "transcript" shows that, in 1895, when TARA was first enacted, the term "transcript" was plainly understood to mean a written reproduction.[8]

A number of modern, authoritative dictionaries define "transcript" in a manner similar to the nineteenth century dictionary definitions, indicating that the legislature, when it amended TARA as recently as 1984, continued to understand the word "transcript" to refer to written or printed abstracts, lists and certificates. Merriam Webster's Collegiate Dictionary (10th ed 1996) defines "transcript" as: "a written, printed, or typed copy, *esp*: a usu. typewritten copy of dictated or recorded material." Black's Law Dictionary (7th ed 1999) limits its definition of "transcript" to certain recorded testimony, but importantly applies "transcript" only to "[a] *handwritten, printed, or typed copy* of testimony given orally." (emphasis added). Consequently, the most commonly accepted meaning of the word "transcript" is and has been a written or paper copy.[9]

In addition to establishing the Legislature's intent when it enacted TARA, this consistent usage also demonstrates that the Legislature did not intend for the word "transcript" to

[8]The language of TARA has changed very little over time. The only significant difference between the 1895 version of Section 1 of the statute and the version at issue here is the change in the amount of the fee, which has gradually increased from 3 cents to 25 cents per abstract.

[9] The cases cited by Appellants in support of their definition of "transcript" are strictly limited to the meaning of the term in 5 U.S.C. § 7701, a statute with an entirely different purpose from TARA. (*See* Brief on Appeal - Appellants at 20-21(citing *Gonzales* v *Defense Logistics Agency*, 772 F2d 887, 890 (Fed Cir 1985); *Gearan* v *Department of Health and Human Services*, 838 F2d 1190 (Fed Cir 1988).) *Ronald C. Connolly, MD, PA* v *Labowitz,* is an unpublished Delaware case, in which the definition of "transcript" is only briefly mentioned in a footnote. 1987 WL 28316, at 1 n 1.

include magnetic tapes or electronic files. The Treasurers have simply failed to marshal a credible case that the term "transcript" *explicitly* applies to electronic data files.

The Treasurers' attempts at statutory construction are also not persuasive. They assert that the Legislature's use of the phrase "paper or record" in Section 1 of TARA indicates that a record may be in a form other than paper. Given the fact that the balance of the statute makes repeated references to the creation of abstracts and lists, it seems rather more likely that the Legislature understood the term "record" to refer to an entry or entries in a larger collection of information. Moreover, the Treasurers fail to acknowledge that, for a public record to come within TARA, it must not only be a "transcript," but it must also be either an abstract, a list, a copy of a paper or document,[10] or a certificate. *See* MCL § 48.101(1)(a)–(e), MSA § 5.711(1)(a)-(e). The public records requested by The Title Office are none of these things. Nor do the Treasurers explain why, if the Legislature intended the word "transcript" to mean "copy," it did not simply use the word "copy." After all, the Legislature was plainly familiar with the word, having used it in Subsection (1)(d).

The Treasurers also fail in their interpretation of TARA to adhere to basic principles of statutory construction. As this Court stated *In re Requests of the Governor*, 389 Mich 441, 477, 208 NW2d 469, 480 (1973), when construing a statute, "the Court must give effect to the legislative intent and read the language in the light of the general purpose sought to be accomplished." Further, "the words of a statute must be taken in the sense in which they were understood at the time when the statute was enacted." *Davis v Beres*, 384 Mich 650, 653, 196 NW2d 567, 568 (1971). Finally, "a statute must be read in its entirety and the meaning given to one section arrived at after due consideration of other sections so as to produce, if possible, an

[10] Black's Law Dictionary (7th ed 1999) defines "document" as: "*Something tangible on which words, symbols, or marks are recorded.*"

harmonious and consistent enactment as a whole." *State Treasurer v Wilson*, 423 Mich 138, 145; 377 Mich. 703, 707 (1985).

The Legislative intent behind TARA was plainly to cover the cost of services provided by the county treasurer in preparing transcripts of abstracts of taxes and similar documents. As Judge Post observed, TARA

> is not a statute allowing the sale of records. It is a statute that permits recovery of costs for services necessarily incurred in producing portions of the record.... this is a law that contemplates the imposition of fees to cover the costs of providing copies of the records, not for the cost of collecting and maintaining the records, nor is this intended to be a profit center or an opportunity to obtain a windfall.

Post Ruling at 18-19. This purpose is underscored by the most recent amendment to TARA, in 1984, which added Subsection 5. This subsection permits a charter county with a population in excess of 2 million to charge a different fee so long as it does not exceed the cost of providing the services contemplated by TARA. MCL § 48.101(5), MSA § 5.711(5). This amendment proves that the purpose of TARA is to compensate the county treasurers for the cost of providing certain types of records, not to provide them with a windfall for performing their statutory duties.

The interpretation of TARA advanced by the Treasurers does not comport with the Legislative intent evidenced by the words of the statute. In addition, it contorts the words used in the statute by ascribing meanings that would not have been apparent when the statute was enacted. Finally, as argued further below, it conflicts with the purposes of FOIA and the mandate in FOIA that exceptions to FOIA's incremental cost provisions be explicit.[11] By contrast, the interpretation advanced by The Title Office is consistent with the meaning and

[11]The reliance of the Treasurers' Association on Representative Bullard's *Memorandum to Members of the House Civil Rights Committee* misses the point. Even if Section 4(4) of FOIA was enacted to save TARA from FOIA's cost provisions, The Title Office's position is that TARA does not apply to the public records it requested.

purposes of both TARA and FOIA. For all these reasons, the result of the Court of Appeals' decision below should be affirmed.

III. EXCEPTIONS TO THE INCREMENTAL COST PROVISIONS OF FOIA MUST BE EXPLICIT, AND TARA PROVIDES NO EXPLICIT FEE FOR THE PUBLIC RECORD REQUESTED HERE

Under FOIA, a public body may generally charge only the incremental cost for providing a copy of a public record. The incremental cost provisions of FOIA do not apply, however, to

> public records prepared under an act or statute *specifically authorizing* the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise *specifically provided* by an act or statute.

MCL §15.234(4), MSA § 4.1801(4)(emphasis added). These exceptions, however, apply only in limited circumstances where another statute "explicitly" authorizes the sale of, or a different fee for, the particular public record requested. *Grebner v Clinton Charter Twp*, 216 Mich App 736, 740; 550 NW2d 265, 267 (1996); *see also Detroit Free Press v Michigan Dep't of State*, No 188313 (Mich App May 16, 1997) (unpublished).[12] In this case, TARA does not "explicitly" apply to the public records requested by The Title Office.

The holding in *Grebner* illustrates the nature of FOIA's fee exceptions. In *Grebner*, the Clinton Charter Township (the "Township") agreed to produce a magnetic tape containing its voter registration rolls under FOIA. 216 Mich App at 736; 550 NW2d at 265. Instead of charging the incremental cost of producing the entire registration roll, however, the Township charged the plaintiff a flat "per name" charge. This per name charge was "meant to defray [the Township's] expenditures in computerizing their maintenance of public records." 216 Mich App at 739; 550 NW2d at 267. The Township's method of calculating the cost

[12] A copy of this unpublished decision is attached as Exhibit F.

increased the plaintiff's fee from the actual incremental costs of $90 to $640. The plaintiff brought an action against the Township to enjoin the Township from charging more than the actual incremental cost of duplicating the voter registration records. The Township argued that it was entitled to charge the higher amount because a statute specifically authorized the county's sale of the voter registration rolls. The statute at issue in *Grebner* permitted a county clerk to produce a computerized file of registered voters "upon the payment to the clerk of the cost of making, certifying, and delivering the tape, disk or listing." 216 Mich App at 742; 550 NW2d at 268, *quoting* MCL § 168.522(1), MSA § 6.1522(1).

The *Grebner* Court rejected the Township's arguments, holding that the Legislature's use of the term "specifically" in MCL § 15.234(4) was synonymous with the term "explicitly." As applied to the Michigan Election Law, the Court held that the language of that statute was "[c]learly . . . not *explicit* authorization of the sale of voter registration rolls" and was not exempt from the FOIA because it "contains no *specific* authorization for the *sale* of voter registration records." *Id.* (emphasis in original). Consequently, the Township was permitted to charge only its actual cost of reproducing the magnetic tape under the Michigan FOIA. *Id.*; *see also Detroit Free Press, supra* (statute permitting $6.55 per name fee for motor vehicle records does not explicitly authorize sale of computer tape so as to except request from the incremental cost provisions of FOIA).

Relying upon the reasoning contained in *Grebner*, *supra*, the *Oakland County* Court properly held that TARA "does not possess the explicit language necessary to qualify for an exception to FOIA's fee requirements." 245 Mich App at 204; 627 NW2d at 321. The Court of Appeals below agreed with the *Oakland County* Court's holding that TARA does not "specifically authorize" the sale of public records. *Van Buren County Treasurer*, 249 Mich App

333, 643 NW2d 251. Consequently, Michigan courts have uniformly held that, consistent with the statutory language and purpose of FOIA, exceptions to its incremental cost provisions must be explicit.

The *Oakland County* panel and the *Van Buren County* panel differ on whether TARA explicitly establishes a fee for the public records requested by The Title Office. The *Oakland County* Court, relying upon *Grebner*, held that, where "there is no explicit language in MCL § 48.101 . . . that provides fees for electronic copies of delinquent tax records, the records must be provided using the FOIA nominal fee requirements." 245 Mich App at 204; 627 NW2d at 321. In fact, the *Oakland County* Court observed that the Oakland County Treasurer could not state with particularity which subsection of TARA "specifically provided" the fee that applied to Title Office's request.[13] Interestingly, the Treasurers here suffer from the same malady. They make vague assertions that TARA provides the specific fees to be charged.[14] But nowhere do they specify which subsection of TARA sets forth the fee for public records requested by The Title Office.

Although the *Van Buren County* Court reached the proper result, two of the judges on that panel incorrectly reasoned, in *dicta*, that an electronic copy of property tax records maintained by a county treasurer constitutes a "transcript" of property records, the fee for which is governed by TARA. That determination, however, is flawed for several reasons. First,

[13] At various stages of the litigation, the Oakland County Treasurer had claimed the request could be governed by either subsections 1(a), 1(d), (2) or (3). This indecision provided "further indication" that TARA does not possess the explicit language necessary to establish an exception to the incremental cost provisions of FOIA. *Oakland County* Treasurer, 245 Mich App at 204-205, 627 NW2d at 321.

[14] *See* Appellants' Brief at 3 ("this Act *specifically* mandates the amount of the fee to be charged"); *id.* at 4 ("Here, there is *no* question that . . . the fee provisions of that Act are controlling"); *id.* at 13 ("the Transcripts and Abstracts of Records Statute *does* specifically set forth a fee for the tax records requested"); *id.* ("this Act *specifically* mandates the precise fee that is required to be charged"); *id.* at 16 (the TARA "is a mandatory statute which clearly falls within the FOIA exemption"); *id.* ("[t]he statute specifically requires a County Treasurer to charge $.25 for the information which comprises the property tax records"); *id.* (the TARA "'specifically, that is explicitly' sets the precise amount of [sic] fee to be charged for the property tax records requested by Appellee"); *see also* Van Buren Treasurers' Brief at 15 ("it is clear that the [TARA] provides a fee to be charged").

although the *Van Buren County* Court claimed to rely upon the "common understanding of the term "transcript," it ignored the clear weight of authority demonstrating that the word "transcript," as used in TARA, refers to a written or printed copy, typically of an excerpt from a more inclusive record. *See supra*, at pp.12-18.

Second, the *Van Buren County* Court prematurely ended its analysis of TARA. After incorrectly concluding that the meaning of "transcript" was broad enough to include an electronic copy of property tax records, the majority compounded its error by failing to consider that the "transcript" must be *of* an abstract, list, document or certificate to come within TARA's fee provisions. *Van Buren County Treasurer*, 249 Mich App at 335-336; 643 NW2d at 252. Never mind that The Title Office did not request any of these things. Notably, the *Van Buren County* majority also failed to identify which subsection of TARA supposedly governed The Title Office's FOIA request.

Finally, the conclusion advocated by the *Van Buren County* majority contravenes the purposes of both FOIA and TARA by restricting access to public records and by permitting the county treasurers to charge fees that far exceed the cost of the services they provide.

The *Oakland County* Court properly concluded that, under *Farrell*, *supra*, "public bodies are required to disclose non-exempted information in its stored and recorded format." 245 Mich App at 203; 627 NW2d at 321. That Court also recognized that the Treasurer's ability to use software to manipulate information contained on a computer tape and create another type of record for which it could charge a different fee under TARA was immaterial under FOIA. Citing *Farrell*, the *Oakland County* Court reasoned that the County Treasurer "is required to provide the 'public record' [defendant] request[s], not just the information contained therein. In this case, defendant did not request a certificate, transcript, abstract, or paper copy. Since delinquent

tax records are stored electronically, defendant is entitled to an electronic copy of that information." *Id* (alterations in original). Consequently, the cost for a copy of the public record requested by the Title Office is governed by FOIA, not TARA. This reasoning applies with equal force here.

Finally, the Treasurers argue that the Enhanced Access to Public Records Act MCL § 15.441, MSA § 4.1803(1) somehow undermines The Title Office's position. But the Enhanced Access Act does not address the public record requests made by The Title Office. That statute applies only to public records made immediately available by digital means, such as over the Internet. MCL § 15.442(a), MSA § 4.1803(2)(a). Furthermore, the Enhanced Access Act, by its own terms, has no effect on FOIA. MCL § 15.443(4), MSA § 4.1803(3) ("this act does not limit the inspection and copying of a public record pursuant to the freedom of information act . . ."). Finally, to the extent that the Enhanced Access Act has any bearing on this case, it underscores the widespread public policy in Michigan of making public records available to the public at the incremental cost of duplicating them. MCL § 15.443(c), MSA § 4.1803(c) (permitting a public body to charge a reasonable fee "calculated to enable a public body to recover only those operating expenses directly related to the public body's provision of enhanced access.").

In short, the *Oakland County* Court did not err by holding that the TARA does not specifically provide a fee for electronic records requested by The Title Office. The Treasurers' claim that a computer tape is the same "public record" as a paper transcript containing the same information is simply false. It obliterates the distinction between types of public records and would permit government agencies to premise their fees for public records on the most expensive manner in which the information contained in the requested record could be made available.

Therefore, the reasoning in *Oakland County Treasurer, supra*, should be adopted, and the result reached below should be affirmed.

IV. THE FEES DEMANDED BY THE TREASURERS FRUSTRATE FOIA'S POLICY GOALS

The Michigan FOIA is a pro-disclosure statute designed to provide all persons with access to public records compiled at taxpayer expense. The massive fees sought by the Treasurers frustrate the policies behind FOIA and offend common sense. The Treasurers' cost of reproducing the computer tapes requested by The Title Office is a tiny fraction of the amount that they have demanded. One strains to find examples where state or local governments profit from the sale of public records collected and maintained at taxpayer expense, especially at the magnitude suggested here.

In his carefully conceived bench opinion, Judge Post pointed out that government records "are acquired and maintained at public expense, and therefore, are the property of the public." *Post Ruling* at 17. FOIA, Judge Post reasoned, was never meant to let a governmental unit "earn a profit or obtain a windfall." *Id.* The same is true of TARA. The Treasurers assert that their position does not run contrary to the policies behind FOIA, but it is obvious that this State's policy of access to public records at cost will be dealt a serious blow if the Treasurers prevail here. For these reasons too, the result below should be affirmed.

CONCLUSION AND RELIEF REQUESTED

The specific public record requested by The Title Office is a magnetic tape that contains electronic files of property tax records. The parties agree that this is a public record subject to FOIA. Accordingly, the incremental cost provisions of FOIA control the cost of copying this public record unless another statute explicitly sets forth a different fee for it. TARA sets forth fees for transcripts of particular records, such as abstracts of taxes or abstracts of

taxpayers' names and residences. But TARA does not explicitly establish a fee for a magnetic tape that contains electronic files of property tax records. In fact, an examination of the meaning of the words used in TARA and the application of basic rules of statutory construction shows that TARA does not apply to such records. In addition, the public policies underlying both FOIA and TARA would be frustrated by attempting to apply the fee provisions in TARA to the public records requested by The Title Office. Consequently, the incremental cost provisions of FOIA should control the cost for duplicating the requested public records.

For all of the foregoing reasons, the decision in Oakland County Treasurer, *supra,* should be adopted, and the result below should be affirmed.

DATED: July 2, 2003

Respectfully submitted,

WARNER NORCROSS & JUDD LLP

By: Daniel R. Gravelyn
Daniel R. Gravelyn (P40306)
Christine E. Gale (P64795)

Attorneys for Plaintiff-Appellee The Title Office

EXHIBIT A

August 14, 1998

Freedom of Information Act Officer
Allegan County

Mr. Fulton Sheen or FOIA Officer
Allegan County Treasurer
113 Chestnut St.
Allegan, MI 49010

Re: **Freedom of Information Act Request**

Dear Mr. Sheen or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Allegan County.

Unfortunately, The Title Office does not know how Allegan County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Allegan County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Allegan County.

Other counties have reproduced their files on 31/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Allegan County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

of $.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com .

Very truly yours,

Richard Vander Broek

CORPORATE SERVICES
P.O. BOX 2279 / HOLLAND, MI 49422

August 14, 1998

Freedom of Information Act Officer
Hillsdale County

Mr. Gary Leininger or FOIA Officer
Hillsdale County Treasurer
Hillsdale County Courthouse
Hillsdale, MI 49242

Re: **Freedom of Information Act Request**

Dear Mr. Leininger or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Hillsdale County.

Unfortunately, The Title Office does not know how Hillsdale County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Hillsdale County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Hillsdale County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Hillsdale County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

of $.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

Richard Vander Broek

CORPORATE SERVICES
P.O. BOX 2279 / HOLLAND, MI 49422

August 14, 1998

Freedom of Information Act Officer
Ionia County

Ms. Nancy Hicki or FOIA Officer
Ionia County Treasurer
100 Main Street
Ionia MI 48846

Re: **Freedom of Information Act Request**

Dear Ms. Hicki or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Ionia County.

Unfortunately, The Title Office does not know how Ionia County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Ionia County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Ionia County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Ionia County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

of $.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

Richard Vander Broek

CORPORATE SERVICES
P.O. BOX 2279 / HOLLAND, MI 49422

August 14, 1998

Freedom of Information Act Officer
Jackson County

Ms. Janet Rochefort or FOIA Officer
Jackson County Treasurer
120 W Michigan Avenue
Jackson MI 49201

Re: **Freedom of Information Act Request**

Dear Ms. Rochefort or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Jackson County.

Unfortunately, The Title Office does not know how Jackson County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Jackson County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Jackson County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Jackson County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

of $.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

Richard Vander Broek

CORPORATE SERVICES
P.O. BOX 2279 / HOLLAND, MI 49422

August 14, 1998

Freedom of Information Act Officer
Kalamazoo County

Mr. Herman Drenth or FOIA Officer
Kalamazoo County Treasurer
201 W Kalamazoo Avenue
Kalamazoo MI 49007

Re: **Freedom of Information Act Request**

Dear Mr. Drenth or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Kalamazoo County.

Unfortunately, The Title Office does not know how Kalamazoo County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Kalamazoo County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Kalamazoo County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Kalamazoo County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

of $.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

Richard Vander Broek

CORPORATE SERVICES
P.O. BOX 2279 / HOLLAND, MI 49422

August 14, 1998

Freedom of Information Act Officer
Livingston County

Ms. Diane Hardy or FOIA Officer
Livingston County Treasurer
200 East Grand River
Howell, MI 48843

Re: **Freedom of Information Act Request**

Dear Ms. Hardy or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Livingston County.

Unfortunately, The Title Office does not know how Livingston County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Livingston County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Livingston County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Livingston County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

of $.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

Richard Vander Broek

CORPORATE SERVICES
P.O. BOX 2279 / HOLLAND, MI 49422

August 14, 1998

Freedom of Information Act Officer
Van Buren County

Ms. Karen Makay or FOIA Officer
Van Buren County Treasurer
212 Paw Paw St.
Paw Paw MI 49079

Re: **Freedom of Information Act Request**

Dear Ms. Makay or FOIA Officer:

Pursuant to the Michigan Freedom of Information Act, The Title Office, Inc. requests an electronic copy of the tapes or files that contain the 1995, 1996, and 1997 property tax records of Van Buren County.

Unfortunately, The Title Office does not know how Van Buren County maintains its computer system and files on that system. Specifically, The Title Office prefers a copy of the database or data files that contain these records extracted to PC computer diskettes in ASCII format. Please advise me of other common delimited formats of extraction available, if you are unable to reproduce the information in our preferred fashion.

I would assume that Van Buren County maintains backup tapes of its files. If that is the case and you are unable to export the files as specified above, The Title Office seeks a copy of the most recent backup tape or tapes that contain the 1995, 1996, and 1997 property tax records of Van Buren County.

Other counties have reproduced their files on 3 1/2 inch PC diskette, 9-track reel or compact disc when responding to similar requests by The Title Office. The Title Office will gladly provide the medium necessary for Van Buren County to reproduce the files. Please call me if you would like The Title Office to provide these materials.

As you probably know, the FOIA permits a public body to charge a fee equal to the actual incremental costs of reproducing the record requested. The Title Office is willing to pay an agreed upon deposit and fee according to the fee provisions of the FOIA. See MCL § 15.234. The Title Office previously issued a FOIA request to Ingham County for similar records. In response to this request, Ingham County argued that it was entitled to charge the statutory fee

of $.25 per abstract set forth under MCL § 48.101. The Title Office did not agree with Ingham County's position then and it does not agree with any such argument now.

Since our earlier request, several counties have reproduced electronic copies of their property tax records to The Title Office. In reproducing these records, the counties did not charge the statutory abstract fee under MCL 48.101. Moreover, the only court that has addressed this issue agreed with The Title Office and ruled that the statutory abstract fee did not apply to the request by The Title Office. In June 1998, the Ottawa County Circuit Court ruled that the statutory fee relating to the production of abstracts does not apply to the request by The Title Office. The court ruled that the fee provisions under FOIA govern the amount a county is entitled to charge. As part of its reasoning, the court stated that the FOIA fee provisions and the fee provision under the abstract statute are designed to reimburse the county its costs in reproducing the record. The statutes do not permit a county to make a profit when reproducing its records.

Please call me if I can offer assistance with this request or if you have any questions. My direct telephone number is 616 394-4343 ext.24. My e-mail address is richvb@titleoffice.com.

Very truly yours,

Richard Vander Broek

CORPORATE SERVICES
P.O. BOX 2279 / HOLLAND, MI 49422

EXHIBIT B

Allegan County Building
P.O. Box 259
Allegan, Michigan 49010-0259
(616) 673-0260
Fax (616) 673-6094

County of Allegan

FULTON J. SHEEN
County Treasurer

SALLY BROOKS
Chief Deputy Treasurer
ALICE RIDLINGTON
Deputy Treasurer

August 19, 1998

Richard VanderBroek
Freedom of Information Act Officer
Title Office
P.O. 2279
Holland, MI 49010

Re: FOIA request for the 1995, 1996, and 1997 Tax Roll

Dear Mr. VanderBroek:

This is in response to your August 14, 1998 Freedoms of Information Act (FOIA) request for a complete computer copy of the 1995, 1996, and 1997 delinquent tax roll.

Nothing has changed since the last FOIA request you made. The Ottawa County Circuit Court decision to which you referred applies to Ingham County only and thus is not binding on Allegan County. Furthermore a request has been filed for a rehearing of that case in September. Thus until the Legislature changes the statute amount of 25¢ in M.C.L.§48.101, we are bound by law to charge 25¢.

This fee schedule remains applicable when the records are requested pursuant to FOIA M.C.L. § 15.234(4). Understand that these numbers change daily and that they will be obsolete the day you receive them. The three rolls you requested constitute approximately **15,104** delinquent abstracts as of 8/19/98, which would result in a statutory fee of approximately **$3,776.00** for the delinquent information. Current parcel counts as of October 1997, **54,225** for a total of **69,329** parcels. Total cost **$17,332.25**. Because of the unusually high fee for this production, our office requests that you provide a good faith deposit of one-half of the total-estimated fee, if you wish us to provide this information.

Additionally, you should be aware that data files stored by Allegan County's computers are not in the exact format which you requested. The information needed to compile your requested rolls are contained in separate data files, which are combined by the Allegan County's computer program to provide the printed output. Because we have never tried to copy this information for another data base, we are uncertain if it is readable by other computer programs.[1]

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[1]The computer program used by Allegan County is unique to Allegan County government, and computer software is not subject to FOIA, pursuant to MCL § 15.232(f)

Upon receipt of your good faith deposit we will begin processing your request.

If you have any questions regarding this, do not hesitate to contact me.

Sincerely,

Fulton J. Sheen
Allegan County Treasurer

FJS/sm

EXHIBIT C

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OTTAWA

THE TITLE OFFICE, INC., a Michigan Corporation,
Plaintiff,

V File No. 97-28553 CZ

DONALD R. MOORE, Ingham County Treasurer, INGHAM COUNTY TREASURER'S OFFICE,
Defendants.

MOTION FOR SUMMARY DISPOSITION

At a session of said Court held in the Ottawa County Building, in the City of Grand Haven, County of Ottawa, State of Michigan, on the 22nd day of June, 1998.

PRESENT: HONORABLE EDWARD R. POST
Circuit Court Judge

APPEARANCES:

For Plaintiff: WARNER, NORCROSS & JUDD
BY: DANIEL R. GRAVELYN P40306
900 Old Kent Building
111 Lyon Street N.W.
Grand Rapids, MI 49503-2487

For Defendants: COHL, STOKER & TOSKEY
BY: RUTH E. MASON P26432
601 North Capitol
Lansing, MI 48933

Reported by: Jill L. Jessup, CSR 0242
Certified Shorthand Reporter
414 Washington Street Room 303
Grand Haven, MI 49417
616 846-8317

THE COURT: Is this the Title Office case? Are you ready on that one?

MS. MASON: Yes.

MR. GRAVELYN: Yes, Your Honor.

THE COURT: When Judges attend coctail parties people often say things like, have you had any interesting cases lately? And what they really want to hear about is murder and mayhem cases. This is an interesting case, but it would bore someone to death at a cocktail party. It is a very interesting issue, and both sides have written excellent briefs. This is interesting only to lawyers. And you may proceed. I have read your briefs.

MR. GRAVELYN: Thank you, Your Honor. Dan Gravelyn on behalf of Plaintiff Title Office. This is an action against Ingham County to determine the proper fee for public records requested by the Title Office pursuant to FOIA. And I might mention that venue is properly placed in this Court under the Freedom of Information Act which allows the requesting party to bring an action in their home county.

The parties in this case, Your Honor,

agree as to what the essential facts are, and they agree even further as to what the issue is as presented in this case. So I think both sides will submit, Your Honor, that this is a case that can and ought to be decided on cross motions for summary disposition.

The case arises from a FOIA request made by the Title Office seeking a computer tape. It contains Ingham County's 1995 property tax rolls.

The issue presented, and I am paraphrasing here from the defendant's brief, the issue presented is whether the fee that Ingham County may charge for the computer tape is the county's incremental cost of producing that record or instead what the Transcript and Abstract Statute permits the county to charge, 25 cents for each property abstract that is contained in the computer file or that can be derived from the computer file. The incremental cost, as the Court knows, is about two hundred bucks. If the county is permitted to charge .25 per parcel referenced on the computer tape, it skyrockets to something over 23,000.

I gather from Your Honor's opening statement that the stakes in this case are much

greater than what these numbers might otherwise indicate. The Title Office has made similar requests to many other counties in the state. If these counties are all permitted to charge us 25 cents per property parcel, reflected on their computer tapes, the cost to the Title Office to assemble this information will be literally millions of dollars a year and will effectively prevent us from obtaining this information, making use of it and making it available to others.

The Title Office, Your Honor, is an agent for companies that write title insurance. We can make use of the data contained on these computer records, and as indicated we would intend to make this information available to other users on the web site, and these other users may include lenders. They may include realtors. They may include persons purchasing property or delinquent property from time to time.

We made our request, the Title Office made its request on March 17 of 1997, and what it sought, and this is important, Your Honor, is it sought the computer tape on which the data for the property tax rolls is maintained.

We know that Ingham County has a

computerized system, and we know that the data is contained in four separate files and that they back up these files from time to time. And what we have asked for is a copy of the computer backup tapes for this data.

The response made by the county is that pursuant to MCL 48.101, the Transcript and Abstract Statute, they are permitted to charge 25 cents per abstract on property taxes, and since they claim there are 93,000 derived from this computer data they are entitled to charge us 25 cents times 93. That is how we arrive at the $23,000 figure.

Your Honor, the county maintains these property tax rolls as part of its official duties. The information is collected from a variety of sources. A lot of information is provided to the county free from local units of government.

In the old days this information was all kept on paper records, paper files, and if a person wanted a copy of the property tax abstract, they would come into the county office, make a request for an abstract of a particular parcel, and the clerk of the county would search for the records, find the applicable record and type up an

abstract summary. They might certify it, and they would provide a copy of that transcript to the requester for a fee.

The fee was initially set by the Title and Abstract Statute which was first passed in 1895, and the fee at that time was 3 cents per abstract for title. And over the years that statute has been amended to increase the fee to 25 cents per abstract of title.

There is one provision of that statute, Your Honor, that was not cited in the briefs, but I think it is important to Your Honor's decision, and that is Subparagraph 5 of the Transcript and Abstract Statute. What this Paragraph 5 says is that a charter county with a population of more than two million may impose by ordinance a different amount for the fees prescribed by this section, and I am quoting, and it goes on and says a charter county shall not impose a fee which is greater than the cost of the service for which the fee is charged.

Now, while that provision only applies to counties of over two million, and Ingham County is not one of those, I think that evidence --that language evidences a very strong legislative

intent that this statute be a statute that is designed to reimburse counties for the actual cost of providing copies of transcripts. And it's not intended to be a profit maker or profit generator for the county.

More importantly, Your Honor, if you consider this statute, if you consider FOIA, if you consider the Michigan Election Statute, which is referenced in the Grebner case, which is discussed in both parties briefs, if you look at the Michigan Register Statute, which is discussed in Grebner as well, we submit that you will see a very strong public policy in Michigan for making public records available upon request at the incremental or actual cost of producing the copy.

Your Honor would be hard-pressed to find a public record statute in which a governmental unit is permitted to make a profit on a public record. And we submit that that public policy is reflected in all these statutes.

The FOIA Statute, as we have indicated, states that the fee for a public record will be its incremental cost of production. That is the general rule. And both parties I think have indicated that in their briefs.

There is an exception to the general rule which we are litigating today, and that exception states that the general rule doesn't apply, if there is a different fee specifically prescribed by statute. And the Grebner case, which again both parties have discussed, indicates that that exception is narrow, and it refers to situations in which a statute explicitly provides for a different fee for the public record that is requested.

We submit, Your Honor, that the proper analysis for the Court to follow in this case is this. Ask first, what public record has been requested, and then, secondly, ask, does another statute other than FOIA explicitly set a fee for this public record.

The public record that was requested in this case, Your Honor, was a computer tape that contains data on property tax formation for the county. FOIA defines public record in a way that includes computer tapes and computer data, with no question that this is a public record under FOIA.

In fact, in the Farrell case, which we have cited in our brief 209 Mich App at 7, the Court of Appeals indicates a public record is any

data collection or compilation that is used by a government agency in performing its official function. So, again, there is no question that this computer tape is a qualifying public record.

Furthermore, the Farrell case is instructive, because it says, in responding to a FOIA request, a government agency must produce the record in the form in which it is requested.

In that case, Your Honor may recall a Detroit News reporter asked the City of Detroit for a computer tape that contained the 1995 tax roll. The city responded by saying, although we have a computer tape from which we make this tax roll, the way that we ordinarily maintain the tax roll is in its printed format. So you can come in and review the printed tax roll, or we can make a copy of the printout.

The reporter said no, no, that is not what I wanted. What I requested is the actual computer tape. And that case went to the Court of Appeals, and the Court of Appeals found that what the county had to produce under FOIA was the computer tape. It didn't make any difference that the county could derive other different records from that computer tape, because the computer tape

is what the party making the request under FOIA requested.

Here again, Your Honor, we think it is important to note that the record that we requested--or that the Title Office requested, was the computer tape containing the data on the property tax roll for the county.

The second question then is, does another statute explicitly set a fee for this public record. And in this case the computer tape. Ingham County argues that the Transcripts and Abstract Statute applies. We submit that that is just plain wrong, Your Honor.

If one reads the Transcript and Abstract Statute, what it provides is a fee for a printed abstract. And the plain language of the act makes it clear that what the legislature is referring to there are printouts or printed pieces of paper that contain summaries of the property tax information for specific parcels.

We know that because the language includes words like transcript, paper, record, abstract. And we have provided Your Honor with copies with quotes of dictionary definitions of these words which plainly refer to a written

record.

We also note that the title and abstract --or that the Transcript and Abstract Statute doesn't apply to computer records because computer records didn't even exist when this statute was written. They came much, much later.

So we think that it is disingenerous to suggest that that this language was intended to cover this type of record.

Finally, Your Honor, we know that this statute doesn't apply, because in order to make an abstract of a property tax record on a parcel of property, you have to manipulate the computer data that we have requested.

You have to launch a software program, you have to conduct searches, and you have to print out an abstract in order to make the record that is reference in the statute.

In other words, to get an abstract or transcript as the statute describes it, one must manipulate the record that we have requested and turn it to something in a different format.

This, Your Honor, we submit are all reasons that point to the fact that the Transcripts and Abstract Statute would not apply

to the computer records that we have requested.

In addition, Your Honor, as we have noted before, this Transcript and Abstract Statute makes reference in its plain language the public policy of providing public records at the actual cost of providing them. And we submit that there is a legislative intent in creating this Transcripts and Abstract Statute was to reimburse counties for their actual costs of conducting searches and printing out an abstract of the property tax record.

In essence, Your Honor, we would say that what the county is saying here is that because we can take these computer data files and manipulate them into 93,00 different abstracts for property tax records, you have to pay us as if that is what you requested us to do, because we can use this data to make 93,00 abstracts through our software program, you have to pay us for 93,000 abstracts.

But we submit, Your Honor, that the Farrell case plainly militates against this interpretation.

They must produce to us under FOIA the record that we have requested. The record that we

requested was the computer tape. There is no other statute that specifically or explicitly sets forth a different fee for that tape and, therefore, they should be required under FOIA to provide us with a copy of that computer tape at the actual incremental cost of producing the copy.

THE COURT: All right. Thank you very much. Ms. Mason.

MS. MASON: Thank you very much. Ruth Mason behalf of the defendants. I agree with the Court that this might be interesting to lawyers, because it is, obviously, a statutory interpretation. Because the facts are basically not in dispute.

I think it is clear, Your Honor, when you look at the tenets of statutory interpretation the relief sought by the plaintiffs is not properly before this Court. I think the relief that they are seeking may be more properly before the legislature.

What you have here is the FOIA statute. The FOIA statute addresses public records and defines public records as a computer tape and various --virtually any kind of record. And that statute specifically says, if there is another

statute that provides for the sale of a record, that controls.

It is presumed that the legislature knew what statutes were on the books when they passed it. FOIA was amended as late as 1996. The Title Company argues that a computer tape is not a record because they never intended --or computers didn't exist when the statute was passed. That is not a tenet of statutory interpretation. That statute can be read, because the statute provides for a transcript or record on file. And it's clear, the record on file is the computer data that they have sought. It is clear that that is a very, very specific statute that authorizes a specific fee for that record.

If this Court were to determine that FOIA controls, it effectively eliminates the abstract statute, and it basically renders annulity to the exception, because if this statute isn't specific enough to meet the exception, I think there is virtually no statute that would be specific enough to meet the exception that the legislature put under FOIA.

And in looking at the statutory interpretation, the Court is to read the statutes

to try to give effect to both, if possible.

The only way you are going to give effect to both is to rule that the FOIA exception, which is Section 13, the FOIA exception provides that another statute might control, and in this case we have one. If the legislature didn't want this statute to be on the books, they could have taken it off. If the legislature wanted everybody to get the records under FOIA, they wouldn't have put that exception in.

To read it the way they want, Your Honor, you will have in fact nullified the abstract and title record. Because it isn't limited to a piece of paper as they indicate. It is a record, any record, in the Treasurer's Office has to be made available.

In arguing that we are trying to manipulate the record, first of all, it is clear that we are giving them the document or the record as they requested. Farrell addressed the fact that the defendant did not want to produce the computer tape. That is not an issue before this Court. We will give them what we have in the format that they requested.

We are not manipulating. That data will

in fact include land descriptions, names, addresses. What they do with it is their business. It is not for this Court to consider or for the defendant to consider what they do with that information after we release it. The Court is very clear on that.

So while they tell the Court they are performing a public service, there is nothing to prevent them from selling that the day after this court rules.

I think it is clear, and you have read the briefs in this matter, Your Honor, that in order to properly interpret both statutes, you have to find that FOIA has an exception and that this other statute is specific, explicit and controls in this situation.

THE COURT: All right. Thank you very much. This is the opinion of the Court. I reserve the right to edit it as to both content and style if transcription becomes necessary.

The facts in this case are not in dispute. Both parties bring a motion for summary disposition. The plaintiff's motion for summary disposition is granted. Defendant's is denied.

The Freedom of Information Act favors

disclosure of documents. It recognizes that the business of government is open to the public, and it also recognizes that the documents are acquired and maintained at public expense, and, therefore, are the property of the public.

The Freedom of Information act does allow a governmental agency to charge the costs reasonably necessary for the reproduction of the record. But the intent of the Freedom of Information Act is not to allow the government to earn a profit or obtain a windfall. It simply allows the government to recover its costs.

There is a provision, however, in the Freedom of Information Act which does allow the government to charge another fee where one is specifically described by statute. And in this case The Treasurer of Ingham County finds himself in a difficult position because there is a request made for a record, and he faces a statute which requires him to charge a fee. If he fails to do so, he could have to answer to the taxpayers. And if he does so erroneously, he has to answer to the person seeking the information. So the matter is properly before the Court.

The act upon which the treasurer relies

is entitled Transcripts and Abstracts Record Act, originally passed in 1895 which allows The Treasurer to collect 25 cents per abstract of records sought from his office.

Clearly, any reading of that statute indicates that the legislature intended only that The Treasurer receive a fee to cover the costs of going to the record and abstracting a portion of the record or manually transcribing a portion of the record for the benefit of one seeking the record.

Defense counsel says that the statute allows The Treasurer to sell the records. I think that's not what the statute allows. This is not a statute allowing the sale of records. It is a statute that permits recovery of costs for services necessarily incurred in producing portions of the record.

I think plaintiff's counsel correctly points to Subsection 5 as an indication by the legislature that this is a law that contemplates the imposition of fees to cover the costs of providing copies of the records, not for the cost of collecting and maintaining the records, nor is this intended to be a profit center or an

opportunity for the treasurer to obtain a windfall.

If it were a profit center, if it were intended that The Treasurer could collect money for or receive money for merely collecting and obtaining the records, then it would seem that the legislature would have provided a fee for inspection of the records as well. In this case the legislature only provided a fee for abstracting and transcription of the records.

There is no request for a transcription as that term is used in the statute. Transcription, as the term is used in the statute, contemplates that there would be a duplication by manual means of some or all of the records. It does not include a duplication of the computer tape.

Further, there is no request for an abstract which requires an employee of the Treasurer's Office to go to the record to remove portions of the record, to rewrite them in some form and provide physical copies of portions of the record to the requesting party.

So as the term transcript and abstract are used in the statute, the Court determines that

they do not contemplate making a copy of the computer tape.

The Court's ruling leaves intact both statutes. The Transcripts and Abstract of Records Statute is still intact. And when people come to The Treasurer's Office and ask for abstracts one at a time or even more than one at a time or ask for transcripts of portions of the record, there still may be a fee charged as provided. But receiving copies of the tape as requested here, the computer tape, would be a different situation.

I think one of the--parenthetically and more editorial than part of the opinion--one of the things that causes one to stop and think in this case is the fact that there is a for profit company using public records to promote its own business interests. But I think that is a matter for the legislature to decide, and if the legislature decides that a for profit company takes these records on a wholesale basis and makes a profit from maintaining and distributing the information, ought to pay an additional fee, that is something for the legislature. But it was clearly --there was no distinction made in this law between for profit and not for profit

requests. And I don't believe that the statute does apply to the request as it is made. And therefore, as I said, plaintiff's motion for summary disposition is granted. If you will prepare the appropriate order.

MR. GRAVELYN: Thank you, Your Honor.

MS. MASON: Thank you.

(Proceedings concluded).

STATE OF MICHIGAN)

SS

COUNTY OF OTTAWA)

I, Jill L. Jessup, Official Court Reporter for the 20th Judicial Circuit Court, State of Michigan, do hereby certify that the foregoing pages 1 through 21 is a true and accurate transcript of the proceedings heard

Jill L. Jessup, CSR 0242

7-28- 1998

Grand Haven, MI

EXHIBIT D

TRANSCRIPTS AND ABSTRACTS OF RECORDS (EXCERPT)

Act 161 of 1895

48.101 Transcripts and abstracts of papers or records; request; fees; disposition of moneys; imposition of fees by certain charter counties.

Sec. 1.

(1) A county treasurer shall make upon request a transcript of any paper or record on file in the treasurer's office for the following fees:

(a) For an abstract of taxes on any description of land, 25 cents for each year covered by the abstract.

(b) For an abstract with statement of name and residence of taxpayers, 25 cents per year for each description of land covered by the abstract.

(c) For list of state tax lands or state bids, 25 cents for each description of land on the list.

(d) For 1 copy of any paper or document at the rate of 25 cents per 100 words.

(e) For each certificate, 25 cents.

(2) For statements in respect to the payment of taxes required by section 135 of the general property tax act, Act No. 206 of the Public Acts of 1893, as amended, being section 211.135 of the Michigan Compiled Laws, the county treasurer shall receive 20 cents for each description of land contained in the certificate but the total amount paid shall not be less than $1.00.

(3) In no case shall any abstract, list, copy, or statement made as required by this act, be furnished for a sum less than 50 cents.

(4) All moneys collected under the provisions of this act shall be retained by the county treasurer collecting the same, except in counties in which the county treasurer receives a salary in lieu of all fees, in which counties such moneys shall be placed, by the treasurers collecting the same, to the credit of the general fund of the county.

(5) A charter county with a population of more than 2,000,000 may impose by ordinance a different amount for the fees prescribed by this section. A charter county shall not impose a fee which is greater than the cost of the service for which the fee is charged.

History: 1895, Act 161, Eff. Aug. 30, 1895 ;--Am. 1897, Act 21, Eff. Aug. 30, 1897 ;--CL 1897, 2548 ;--Am. 1899, Act 211, Eff. Sept. 23, 1899 ;--Am. 1903, Act 173, Eff. Sept. 17, 1903 ;--CL 1915, 2375 ;--CL 1929, 1275 ;--CL 1948, 48.101 ;--Am. 1949, Act 101, Imd. Eff. May 17, 1949 ;--Am. 1957, Act 49, Eff. Sept. 27, 1957 ;--Am. 1974, Act 141, Imd. Eff. June 5, 1974 ;--Am. 1984, Act 291, Imd. Eff. Dec. 20, 1984 .

EXHIBIT E

AN

AMERICAN DICTIONARY

OF THE

ENGLISH LANGUAGE.

BY

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THOROUGHLY REVISED, AND GREATLY ENLARGED AND IMPROVED,

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[redacted]

One who is jointly concerned with others in any matter; a joint partner; an associate; a partaker.

The associates and copartners of our loss. *Milton.*

Co-pärt′ner-ship, *n.* The state of being a copartner; a joint interest or concern in any matter.

Co-pärt′ner-y, *n.* The state of being copartners in any undertaking.

Cŏp′a-tain, *a.* [Formed from *cop*, as *captain*, O. Fr. *capitaine*, L. Lat. *capitaneus*, from Lat. *caput*, head.] Having a high crown, or a point or peak at top. [*Obs.*] "A *copatain* hat made on a Flemish block." *Gascoigne.*

Co-pā′tri-ot, *n.* [*co*, for *con*, and *patriot*, q. v.] A joint patriot; a compatriot.

Co-pāy′vȧ, *n.* Copaiba. See COPAIBA.

Cōpe, *n.* [W. *cob*, A-S. *cappe*, Sw. *kåpa*, *kappa*, Dan. *kappe*, *kaabe*, D. *kap*, Ger. *kappe*, Fr. *cape*, chape. See CAP.]

1. A covering for the head. *Johnson.*

2. Any thing regarded as extended over the head, as the arch or concave of the sky, the roof or covering of a house, the arch over a door, &c. "The starry *cope* of heaven." *Milton.*

All these things that are contained
Within this goodly *cope*. *Spenser.*

3. A sacerdotal cloak worn during divine service by the clergy, reaching from the shoulders nearly to the feet, and open in front except at the top, where it is united by a band or clasp. "Priests all in their *copes*." *Bp. Burnet.*

4. An ancient tribute due to the king or lord of the soil, out of the lead mines in some parts of Derbyshire.

5. (*Founding.*) The top part of a flask.

Cōpe, *v. t.* To form a cope or arch; to bend; to bow. [*Obs.*] "Some bending down and *coping* toward the earth." *Holland.*

Cōpe, *v. i.* [*imp.* & *p. p.* COPED (kōpt); *p. pr.* & *vb. n.* COPING.] [O. Eng. *coupe*, probably from the O. Fr. *cop*, *coup*, *colp*, a blow, Fr. *coup*, It. *colpo*, from Lat. *colaphus*, a blow with the fist, L. Lat. *colpus*, *colapus*, *colpus*, Gr. κόλαφος, so that it originally meant to interchange blows; or perhaps from D. *koopen*, A-S. *ceapan*, *ceapian*, to cheapen, trade. See 5, and cf. COPPICE.]

1. To enter into or maintain a contest; to struggle; to combat; especially, to strive or contend on equal terms or with success; to match; to equal; — usually followed by *with*.

Host *coped* with host, dire was the din of war. *Philips.*

Their generals have not been able to cope with the troops of Athens. *Addison.*

2. To interchange kindness or sentiments; to encounter; to accost.

She that never *coped* with stranger eyes. *Shak.*

3. To exchange or barter. [*Obs.*] *Spenser.*

Cōpe, *v. t.* 1. To match one's self against; to have dealings with; to accost.

I love to *cope* him in these sullen fits. *Shak.*

They say he yesterday *coped* Hector in the battle, and struck him down, the disdain and shame whereof hath ever since kept Hector fasting and waking. *Shak.*

2. To make return for; to requite; to reward.

Three thousand ducats due unto the Jew,
We freely *cope* your courteous pains withal. *Shak.*

Cō′peck, *n.* A Russian coin of copper, worth about three quarters of a cent.

Cōpe′man, *n.* [D. *koopman*, from *koopen*, to buy.] A chapman; a merchant. [*Obs.*]

He would have sold his part of paradise
For ready money, had he met a *copeman*. *B. Jonson.*

Co-pēr′ni-can, *a.* Pertaining to Copernicus, a Prussian by birth, who taught the world the solar system now received, called the *Copernican* system.

Cōpes′māte, *n.* A striver in friendship; an associate or companion; a friend. [*Obs.*]

Misshapen Time, *copesmate* of ugly Night. *Shak.*

Cōpe′stōne, *n.* (*Arch.*) Head or top stone, as of a wall; coping; — called also *coping-stone*.

Co-phō′sis, *n.* [Gr. κώφωσις, from κωφοῦν, to make deaf, from κωφός, deaf.] (*Med.*) Deafness.

Cŏp′i-er, *n.* 1. One who copies; one who writes or transcribes from an original; a transcriber.

2. An imitator; a plagiary.

Cōp′ing, *n.* [See COPE, *n.*] (*Arch.*) The highest or covering course of masonry in a wall, often with sloping edges to carry off water; — sometimes called *capping*. *Gwilt.*

Cō′pi-ous, *a.* [Lat. *copiosus*, from *copia*, abundance, from *co*, for *con*, and *ops*, *opis*, power, property; It. & Sp. *copioso*, Pr. *copios*, Fr. *copieux*.] Large in quantity or amount; plentiful; abundant.

The tender heart is peace,
And kindly pours its *copious* treasures forth
In various converse. *Thomson.*

Hail, Son of God, Savior of men! thy name
Shall be the *copious* matter of my song. *Milton.*

Syn. — Ample; abundant; plentiful; plenteous; rich; full; exuberant; overflowing. See AMPLE.

Cō′pi-ous-ly, *adv.* In a copious or abundant manner; plentifully; largely; amply.

Cō′pi-ous-ness, *n.* 1. Fullness of supply; great quantity; abundance; plenty.

2. Diffusiveness of style or manner of treating a subject; opposed to conciseness. "The *copiousness* of Homer." *Dryden.*

Syn. — Abundance; plenty; richness; exuberance; diffusion; amplitude; fullness.

Cŏp′ist, *n.* [Fr. *copiste*. See COPY.] A copier. [*Obs.*] "A *copist* after nature." *Shaftesbury.*

Cŏp′land, *n.* A piece of ground terminating in a point or acute angle. [*Obs.*] *Bailey.*

Co-plănt′, *v. t.* [*co*, for *con*, and *plant*, q. v.] To plant with something else, or at the same time. [*Obs.*] *Howell.*

Co-pôr′tion, *n.* [*co*, for *con*, and *portion*, q. v.] Equal share. [*Obs.*] *Spenser.*

Cŏ′pos, *n.* [Gr. κόπος, weariness.] (*Med.*) Weariness resulting from disease; a morbid lassitude.

Cŏpped (kŏpt), *a.* Rising to a point or head. "*Copped* like a sugar-loaf." *Wiseman.*

Cŏp′pel, *n.* The same as CUPEL.

Cŏp′per, *n.* [D. *koper*, Sw. *koppar*, Dan. *kobber*, Ger. *kupfer*, O. H. Ger. *kuphar*, Late Lat. *cuprum*, Lat. *Cyprium*, *Cyprium aes*, Gr. χαλκὸς Κύπριος, i. e., Cyprian brass, from *Cyprus*, Gr. Κύπρος, an island on the coast of Asia Minor, renowned for its rich copper mines; Sp. & Pg. *cobre*, Fr. *cuivre*.]

1. A metal of a reddish color, ductile, malleable, and tenacious. It is among the most elastic and sonorous of the metals. It fuses at 2000° of Fahrenheit, and has a specific gravity varying from 8.8 to 8.9.

☞ It is found native, and also in various ores, of which the most important are copper pyrites, copper glance, red oxide of copper, and malachite. Copper mixed with tin forms bell-metal; with a smaller proportion, bronze; and with zinc, it forms brass, pinchbeck, and other alloys. *Dana.*

2. A coin made of copper. [*Colloq.*]

My friends filled my pockets with *coppers*. *Franklin.*

3. A vessel, especially a large boiler, made of copper.

Cŏp′per, *a.* Consisting of, or resembling, copper. "A hot and *copper* sky." *Coleridge.*

Cŏp′per, *v. t.* [*imp.* & *p. p.* COPPERED; *p. pr.* & *vb. n.* COPPERING.] To cover or sheathe with sheets of copper; as, to *copper* a ship.

Cŏp′per-as, *n.* [It. *copparosa*, Sp. & Pg. *caparrosa*, Fr. *couperose*, L. Lat. *cuprosa*, *cuperosa*, *coperosa*, O. Ger. *koper-roose*, from Lat. *cuprirosa*, equivalent to Gr. χάλκανθος, i. e., copper-flower, D. *koperrood*, i. e., *copper-red*.] Sulphate of iron, or green vitriol; a salt of a green color, and styptic, astringent taste.

☞ It is much used in dyeing black, and in making ink, and in medicine as a tonic. The copperas of commerce is usually made by the decomposition of iron pyrites. The term *copperas* was formerly synonymous with *vitriol*, and included the green, blue, and white vitriols, or the sulphates of iron, copper, and zinc. *Dana.*

Cŏp′per-bŏt′tomed, *a.* Having a bottom sheathed with copper, as a ship.

Cŏp′per-fāced, *a.* Faced or covered with copper; as, *copper-faced* type.

Cŏp′per-făst′ened (-făs′nd), *a.* Fastened with copper bolts, as the planks of ships, &c.

Cŏp′per-hĕad (-hĕd), *n.* [From its color.] 1. (*Herp.*) A poisonous American serpent, the *Trigonocephalus contortrix*; — called also *copper-belly* and *red viper*.

2. A name given to those in the Northern states who were charged with sympathizing with the Southern rebellion. [*U. S.*]

Cŏp′per-ing, *n.* 1. Act of covering with copper.

2. An envelope or covering of copper; as, the *coppering* of a ship's bottom.

Cŏp′per-ish, *a.* Containing copper; like copper, or partaking of it.

Cŏp′per-nick′el, *n.* (*Min.*) A mineral consisting principally of arsenic and copper; arseniuret of nickel.

Cŏp′per-nōse, *n.* A red nose. *Shak.*

Cŏp′per-plāte, *n.* 1. A plate of polished copper on which an engraving has been made with a graver, or otherwise.

2. A print or impression taken from a copper-[plate.]

Cŏp′per-smith, *n.* One whose occupation is to manufacture copper utensils.

Cŏp′per-works (-wûrks), *n. pl.* A place where copper is wrought or manufactured. *Woodward.*

Cŏp′per-worm (-wûrm), *n.* A small worm, the *Teredo navalis*, which penetrates the bottoms of ships; also, sometimes, the ring-worm.

Cŏp′per-y, *a.* Mixed with copper; containing copper, or made of copper; like copper.

Cŏp′pice, *n.* [O. Fr. *copeis*, *coupis*, from *coper*, *couper*, to cut, O. Sp. *colpar*, It. *colpire*, L. Lat. *colpare*, from *cop*, *coup*, *colp*, *colpo*, a blow. See COPE, *v. i.*] A wood of small growth, or consisting of underwood or brushwood; a wood cut at certain times for fuel or other purposes.

The rate of coppice lands will fall on the discovery of coal mines. *Locke.*

Cŏp′pin, *n.* The cone of thread wound upon a spindle in spinning.

Cŏp′ple, *n.* [A diminutive of *cop*.] Something rising in a conical shape; a hill rising to a point. [*Obs.*] "A low cape, and upon it a *copple* not very high." *Hackluyt.*

Cŏp′ple-crown, *n.* A tuft of feathers on the head of a fowl. "The *copple-crown* the lapwing has." *Randolph.*

Cŏp′pled (kŏp′pld), *a.* [From *cop*.] Rising to a point; conical. *Woodward.*

Cŏp′ple-dust, *n.* Cupel-dust.

Cŏp′ple-stōne, *n.* A lump or fragment of stone rounded by the action of water. See COBBLE-STONE.

Cŏp′py-woods, *n. pl.* Woods for felling; coppice.

Cŏp′ro-līte (49), *n.* [Gr. κόπρος, dung, and λίθος, stone.] (*Paleon.*) Petrified dung of carnivorous reptiles. *Buckland.*

Cŏp′ro-lĭt′ic, *a.* Containing or resembling coprolites.

Co-prŏph′a-gan, *n.* [See *infra*.] (*Entom.*) A kind of beetle which lives in, or feeds upon, the dung of animals.

Co-prŏph′a-goŭs, *a.* [Gr. κόπρος, excrement, and φαγεῖν, to eat.] Feeding on excrements or other filth.

Cŏps, *n.* [Cf. *cop* and *cub*.] The connecting crook of a harrow.

Cŏpse, *n.* A wood of small growth. See COPPICE.

Near yonder *copse* where once the garden smiled. *Goldsmith.*

Cŏpse, *v. t.* To trim or cut; — said of brushwood, tufts of grass, &c. *Halliwell.*

Cŏps′y, *a.* Having copses. "*Copsy* villages on either side." *Dyer.*

Cŏpt, *n.* [See *infra*.] A descendant of an ancient Egyptian race, belonging to the Jacobite or Monophysite sect.

Cŏp′tic, *a.* [This name is an abbreviation of Lat. *Ægyptius*, Gr. Αἰγύπτιος, an Egyptian, Ar. *kibti*, pl. *kibt*.] Belonging or relating to the Copts.

Cŏp′tic, *n.* The language of the Copts.

Cŏp′ū-lȧ, *n.* [Lat., from *co*, for *con*, and *apere*, to take, seize upon.]

1. (*Logic.*) The word which unites the subject and predicate of a proposition.

2. (*Mus.*) The stop which connects the manuals, or the manuals with the pedals; — called also *coupler*.

3. (*Anat.*) A ligament.

Cŏp′ū-lāte, *a.* [Lat. *copulatus*, p. p. of *copulare*.] Joined. [*Obs.*] *Bacon.*

Cŏp′ū-lāte, *v. t.* [Lat. *copulare*, *copulatum*, to couple, join; It. *copulare*, Pr. & Sp. *copular*, Fr. *copuler*. See COPULA.] To join in pairs; to unite; to couple; to pair. [*Obs.*] *Bailey.*

Cŏp′ū-lāte, *v. i.* [*imp.* & *p. p.* COPULATED; *p. pr.* & *vb. n.* COPULATING.] To unite in sexual embrace.

Cŏp′ū-lā′tion, *n.* [Lat. *copulatio*.] The act of coupling; the embrace of the sexes in the act of generation; coition.

Cŏp′ū-la-tive, *a.* [Lat. *copulativus*, It. & Sp. *copulativo*, Pr. *copulatiu*, Fr. *copulatif*.]

1. Serving to couple, unite, or connect.

2. (*Gram.*) Uniting the sense as well as the words.

Cŏp′ū-la-tive, *n.* 1. (*Gram.*) A copulative conjunction.

2. Connection. [*Obs.*] *Ricaut.*

Cŏp′ū-la-tive-ly, *adv.* In a copulative manner.

Cŏp′ū-la-to-ry (50), *a.* Pertaining to copulation; tending or serving to unite; copulative.

Cŏp′y, *n.* [Fr. *copie*, Pr., It., Sp., & Pg. *copia*, from Lat. *copia*, abundance, number, L. Lat., a pattern for writing, transcript.]

1. An abundance or plenty of any thing; copiousness. [*Obs.*]

She was blessed with no more copy of wit, but to serve his humor thus. *B. Jonson.*

2. A writing like another writing; a transcript from an original; or a book printed according to the original.

I have not the vanity to think my *copy* equal to the original. *Denham.*

3. One of a series of imitations or repetitions of an original work; as, a *copy* of a deed, or of a book; a *copy* of a picture or statue, &c. "Many feeble copies of the great original." *Macaulay.*

4. An original work; that which is to be imitated, especially that which is to be printed; original; pattern; model.

Let him first learn to write, after a copy, all the letters. *Holder.*

The *copy* is at the press. *Dryden.*

Syn. — Imitation; transcript; duplicate; counterfeit.

Cŏp′y, *v. t.* [*imp.* & *p. p.* COPIED (kŏp′id); *p. pr.* & *vb. n.* COPYING.] [Fr. *copier*, Sp. *copiar*, It. & L. Lat. *copiare*. See *supra*.] To write, print, or engrave after an original; to imitate; to transcribe; to model after; — often with *out*, sometimes with *off*.

I like the work well; ere it be demanded
(As like enough it will), I'd have it *copied*. *Shak.*

Let this be *copied* out,
And keep it safe for our remembrance. *Shak.*

We *copy* instinctively the voices of our companions, their accents, and their modes of pronunciation. *Dugald Stewart.*

Cŏp′y, *v. i.* To make an imitation; to do any thing in imitation of something else.

Some . . . never fail, when they *copy*, to follow the bad as well as the good things. *Dryden.*

Cŏp′y-bo͝ok, *n.* A book in which copies are written or printed for learners to imitate.

Cŏp′y-er, *n.* One who copies or transcribes.

Cŏp′y-hōld, *n.* (*Eng. Law.*) (*a.*) A tenure of estate by copy of court roll; or a tenure for which the tenant has nothing to show, except the rolls made by the steward of the lord's court. *Blackstone.* (*b.*) Land held in copy-hold. *Milton.*

Cŏp′y-hōld′er, *n.* One who is possessed of land in copy-hold.

Trăn′script, *n.* [Lat. *transcriptum*, from *transcriptus*, p. p. of *transcribere*; It. *trascritto*. See *supra*.]

1. That which has been transcribed; a writing made from and according to an original; a writing or composition consisting of the same words with the original; a written copy.

The decalogue of Moses was but a *transcript*, not an original. *South.*

2. A copy of any kind; an imitation.

The Roman learning was a *transcript* of the Grecian. *Glanville.*

Tran-scrĭp′tion, *n.* [Lat. *transcriptio*, Fr. *transcription*, It. *transcrizione*.]

1. The act of transcribing or copying; as, corruptions creep into books by repeated *transcriptions*.

2. (*Mus.*) A kind of free translation of a vocal into a piano-forte or an orchestral work; an adaptation; an arrangement; — a name applied by modern composers for the piano-forte to a more or less fanciful and ornate reproduction on their own instrument of a song or other piece not originally intended for it.

Tran-scrĭpt′ive, *a.* Done as from a copy; having the style or appearance of a transcription. [*Rare.*]

Tran-scrĭpt′ive-ly, *adv.* In a transcriptive manner. [*Rare.*] *Browne.*

Trans-cŭr′, *v. i.* [Lat. *transcurrere*, from *trans*, across, over, and *currere*, to run; It. *trascorrere*, Sp. *trascurrir*, *transcurrir*.] To run or rove to and fro. [*Obs.*] *Bacon.*

Trans-cŭr′rence, *n.* [From Lat. *transcurrens*, p. pr. of *transcurrere*.] A roving hither and thither.

Trans-cŭr′sion, *n.* [Lat. *transcursio*. See *supra*.] A rambling or ramble; a passage beyond certain limits; extraordinary deviation; excursion. [*Obs.*]

I am to make often *transcursions* into the neighboring forests as I pass along. *Howell.*

Trans-dī′a-lect, *v. t.* [Prefix *trans* and *dialect*.] To transfer or translate from one dialect into another. [*Very rare.*] *Warburton.*

Trans-dŭc′tion, *n.* [From Lat. *transducere*, *transductum*, equivalent to *traducere*, to lead across or over. See TRADUCE and TRADUCTION.] The act of conveying over. *Entick.*

Trānse, *n.* The same as TRANCE. [*Obs.*]

Trans-ĕl′e-ment, } *v. t.* To change or trans-
Trans-ĕl′e-ment′āte, } pose the elements of; to transubstantiate. [*Obs. and rare.*] *Bp. Taylor.*

Trans-ĕl′e-men-tā′tion, *n.* [Fr. *transélémentation*, from Lat. *trans*, over, and *elementum*, element.] (*Eccl.*) The change of the elements of one body into those of another, as of the bread and wine into the actual body and blood of Christ; transubstantiation. *Burnet.*

Trăn′senne, *n.* The same as TRANSOM, q. v. [*Obs.*]

Trăn′sept, *n.* [From Lat. *trans*, across, beyond, and *septum*, an inclosure. See SEPTUM.] (*Arch.*) Any part of a church that projects at right angles to the body (that is, the high central portion of either nave or choir), and is of equal, or nearly equal, height to this; in a cruciform church, one of the arms of the cross.

Transepts are always arranged in pairs; that is to say, the projection southward is always accompanied by a corresponding projection northward. . . . Hence the word *transept* is sometimes used in the singular to include both the north and south branches. *Oxf. Gloss.*

Tran-sĕx′ion, *n.* [From Lat. *trans*, across, and *sexus*, sex.] Change of sex. [*Obs.*]

Trans-fĕm′i-nāte, *v. t.* [From Lat. *trans*, over, beyond, across, and *femina*, woman.] To change into a woman, as a man. [*Obs. and rare.*] *Browne.*

Trans-fẽr′, *v. t.* [*imp.* & *p. p.* TRANSFERRED; *p. pr.* & *vb. n.* TRANSFERRING.] [Lat. *transferre*, from *trans*, across, over, and *ferre*, to bear; Fr. *transférer*, Sp. *transferir*, *trasferir*, It. *transferire*, *trasferire*. Cf. TRANSLATE.]

1. To convey from one place or person to another; to transport or remove to another place or person; as, to *transfer* the laws of one country to another.

2. To make over the possession or control of; to pass; to convey, as a right, from one person to another; to sell; to give; as, the title to land is *transferred* by deed.

3. To remove from one substance to another; as, to *transfer* drawings or engravings to a lithographic stone. *Tomlinson.*

Syn. — To sell; give; alienate; estrange; sequester.

Trăns′fer, *n.* 1. The act of transferring, or of being transferred; the removal or conveyance of a thing from one place or person to another.

2. The conveyance of right, title, or property, either real or personal, from one person to another, either by sale, by gift, or otherwise.

I shall here only consider it as a *transfer* of property. *Burke.*

3. That which is transferred; as, (*a.*) A picture removed *from* one body or ground to another, as from wood to canvas, or from one piece of canvas to another. *Fairholt.* (*b.*) (*Mil.*) A soldier removed from one troop, or body of troops, and placed in another.

Trans-fẽr′a-bĭl′i-ty, *n.* The quality of being transferable.

Trans-fẽr′a-ble (Synop., §130), *a.* [Fr. *transférable*, It. *transferibile*.] [Written also *transferrible*.]

1. Capable of being transferred or conveyed from one place or person to another.

2. Negotiable, as a note, bill of exchange, or other evidence of property, that may be conveyed from one person to another by indorsement or other writing; as, the stocks of the public, and of companies, are *transferable*.

Trăns′fer-book, *n.* A register of changes of ownership in stocks, bonds, and the like. *Simmonds.*

Trăns′fer-dāy, *n.* One of certain regular days at the Bank of England for registering transfers of bank-stock and government funds in the books of the corporation. *Simmonds.*

Trăns′fer-ee′, *n.* The person to whom a transfer is made.

Trăns′fer-ence, *n.* Act of transferring; transfer.

Trăns′fer-ŏf′fice, *n.* An office or department where transfers of stocks, &c., are made.

Trăns′fer-ŏg′ra-phy, *n.* [Eng. *transfer* and Gr. γράφειν, to write.] The act or process of copying inscriptions, and the like, by making transfers.

Trăns′fer-pā′per, *n.* A prepared paper used in lithography or copying-presses, for transferring impressions. *Simmonds.*

Trans-fẽr′rence, *n.* See TRANSFERENCE.

Trans-fẽr′rer, *n.* One who makes a transfer or conveyance.

Trăns-fẽr′ri-ble, *a.* Capable of being transferred; transferable. See TRANSFERABLE.

Trans-fĭg′ū-rāte, *v. t.* To transfigure; to transform. [*Obs.*]

Trans-fĭg′ū-rā′tion, *n.* [Fr. *transfiguration*, Sp. *transfiguracion*, *trasfiguracion*, It. *transfigurazione*, *trasfigurazione*, Pr. & Lat. *transfiguratio*.]

1. A change of form; especially, the supernatural change in the personal appearance of our Savior on the mount.

2. A feast held by some branches of the Christian church on the 6th of August, in commemoration of the miraculous change above mentioned.

Trans-fĭg′ūre (-fĭg′yụr), *v. t.* [*imp.* & *p. p.* TRANSFIGURED; *p. pr.* & *vb. n.* TRANSFIGURING.] [Fr. *transfigurer*, Pr. & Sp. *transfigurar*, *trasfigurar*, It. *transfigurare*, *trasfigurare*, Lat. *transfigurare*, from *trans*, across, over, and *figurare*, to form, shape, from *figura*, form, figure.]

1. To change the outward form or appearance of; to transform.

2. Especially, to change to something very elevated and glorious; to give an ideal form to. "And was *transfigured* before them." *Matt.* xvii. 2.

Trans-fĭx′, *v. t.* [*imp.* & *p. p.* TRANSFIXED (trans-fĭkst′); *p. pr.* & *vb. n.* TRANSFIXING.] [Lat. *transfigere*, *transfixum*, from *trans*, across, through, and *figere*, to fix, fasten, It. *trafiggere*, Pr. *transfigir*.] To pierce through, as with a pointed weapon; as, to *transfix* one with a dart or spear.

Trans-fĭx′ion, *n.* 1. The act of transfixing, or piercing through.

2. The state of being transfixed, or pierced.

Christ shed blood in his scourging, his affixion, his *transfixion*. *Bp. Hall.*

Trăns′flu-ent, *a.* [From Lat. *trans*, across, through, and *fluere*, to flow or run.]

1. Flowing or running across or through; as, a *transfluent* stream.

2. (*Her.*) Passing or flowing through a bridge; — said of water. *Wright.*

Trăns′flŭx, *n.* [Lat. *transfluxus*, p. p. of *transfluere*, to flow through, from *trans*, through, across, and *fluere*, to flow.] A flowing through, across, or beyond. [*Rare.*]

Trăns′fo-rāte, *v. t.* [Lat. *transforare*, *transforatum*, from *trans*, across, through, and *forare*, to bore; Pr. *transforar*, *trasforar*, It. *traforare*.] To bore through. [*Obs.*]

Trans-fôrm′, *v. t.* [*imp.* & *p. p.* TRANSFORMED; *p. pr.* & *vb. n.* TRANSFORMING.] [Fr. *transformer*, Pr. & Pg. *transformar*, Sp. *transformar*, *trasformar*, It. *transformare*, *trasformare*, Lat. *transformare*, from *trans*, across, over, and *formare*, to form.]

1. To change the form of; to change in shape or appearance; to metamorphose; as, a caterpillar *transformed* into a butterfly.

Love may *transform* me to an oyster. *Shak.*

2. To change into another substance; to transmute; as, the alchemists sought to *transform* lead into gold.

3. (*Theol.*) To change the disposition and temper of, from a state of enmity to God and his law into the image of God, or into a disposition and temper conformed to the will of God.

Be ye *transformed* by the renewing of your mind. *Rom.* xii. 2.

4. (*Rom. Cath. Church.*) To change, as the elements, bread and wine, into the flesh and blood of Christ.

5. Among the mystics, to change, as the contemplative soul, into a divine substance, by which it is lost or swallowed up in the divine nature.

6. (*Math.*) To change into another form without altering the value, as an equation, without destroying the equality of its members, or a geometrical figure, without changing its area or volume.

Trans-fôrm′, *v. i.* To be changed in form; to be metamorphosed. [*Rare.*]

His hair *transforms* to down. *Addison.*

Trans-fôrm′a-ble, *a.* Capable of being transformed.

Trăns′for-mā′tion, *n.* [Fr. *transformation*, Sp. *transformacion*, *trasformacion*, It. *transformazione*, *trasformazione*, Lat. *transformatio*.] The act of transforming, or the state of being transformed; change of form or condition; as, (*a.*) Change of form in insects, as from a caterpillar to a butterfly; metamorphosis. (*b.*) The change of one metal into another, as of copper or tin into gold; transmutation. (*c.*) The change of the soul into a divine substance, as among the mystics. (*d.*) Transubstantiation. (*e.*) (*Theol.*) Conversion from sinfulness to holy obedience. (*f.*) (*Math.*) The change, as of an equation or other expression, or any quantity, into another form without altering the value.

Trans-fôrm′a-tive, *a.* [It. & Sp. *transformativo*, *trasformativo*, Pr. *transformatiu*, O. Fr. *transformatif*.] Having power, or a tendency, to transform.

Trans-fôrm′ing, *p. a.* Effecting, or able to effect, a change of form or state; as, the *transforming* power of true religion.

Trans-freight′ (-frāt′), *v. i.* [O. Fr. *transfréter*, Sp. *transfretar*, *trasfretar*, Lat. *transfretare*, to cross a strait, to pass over the sea, from *trans*, across, over, and *fretum*, a strait.] To pass over the sea. [*Obs.*] *Waterland.*

Trăns′fre-tā′tion, *n.* [Sp. *transfretacion*, *trasfretacion*, Lat. *transfretatio*. See *supra*.] The passing over a strait or narrow sea. [*Obs.*] *Davies.*

Trăns′fūge, } *n.* [From Lat. *trans*, across or
Trans-fū′gi-tive, } through, and *fugere*, to flee.] One who flees from one side to another; a turncoat; a deserter; an apostate. [*Rare.*]

Trans-fŭnd′, *v. t.* [Lat. *transfundere*, from *trans*, over, across, and *fundere*, to pour, pour out; It. *transfondere*, *trasfondere*, Sp. *transfundir*, *trasfundir*. Cf. TRANSFUSE.] To pour from one vessel into another; to transfuse. [*Obs.*]

Trans-fūse′, *v. t.* [*imp.* & *p. p.* TRANSFUSED; *p. pr.* & *vb. n.* TRANSFUSING.] [Lat. *transfundere*, *transfusum*, Fr. *transfuser*. See *supra*.]

1. To pour, as liquor, out of one vessel into another.

2. (*Med.*) To transfer, as blood, from the veins or arteries of one animal to those of another.

3. To cause to pass from one to another; to cause to be instilled or imbibed; as, to *transfuse* a spirit of patriotism from one to another; to *transfuse* a love of letters.

Into thee such virtue and grace
Have I *transfused*. *Milton.*

Trans-fūs′i-ble, *a.* Capable of being transfused.

Trans-fū′sion, *n.* [Fr. *transfusion*, Sp. *transfusion*, *trasfusion*, It. *transfusione*, *trasfusione*, Lat. *transfusio*.]

1. The act of transfusing, or pouring, as liquor, out of one vessel into another.

2. (*Med.*) The act or operation of transferring the blood of one animal into the vascular system of another by means of a tube.

Trăns-fū′sive, *a.* Tending to transfuse, or having power to transfuse.

Trans-grĕss′, *v. t.* [*imp.* & *p. p.* TRANSGRESSED (trans-grĕst′); *p. pr.* & *vb. n.* TRANSGRESSING.] [Fr. *transgresser*, O. Fr. *transgredir*, Sp. *transgredir*, *trasgredir*, It. *transgredire*, *trasgredire*, Lat. *transgredi*, *transgressus*, from *trans*, across, and *gradi*, to pass, walk.]

1. To pass over or beyond; to surpass. [*Rare.*]

2. Hence, to overpass, as any rule prescribed as the limit of duty; to break or violate, as a law, civil or moral.

Man will hearken to his glozing lies,
And easily *transgress* the sole command. *Milton.*

3. To offend against; to vex. [*Obs.*]

Why give you peace to this imperate beast
That hath so long *transgressed* you? *Beau. & Fl.*

Trans-grĕss′, *v. i.* To offend by violating a law; to sin. "Achan, the troubler of Israel, who *transgressed* in the thing accursed." *1 Chron.* ii. 7.

Trans-grĕs′sion (-grĕsh′un), *n.* [Fr. *transgression*, Sp. *transgresion*, *trasgresion*, It. *transgressione*, *trasgressione*, Pr. *transgressio*, *trasgressio*, Lat. *transgressio*.]

1. The act of transgressing, or of passing over or beyond any law or rule of moral duty; the violation of a law or known principle of rectitude; breach of command.

Forgive thy people . . . all their *transgressions* wherein they have transgressed against thee. *1 Kings* viii. 50.

What rests, but that the mortal sentence pass
On his *transgression*, death denounced that day? *Milton.*

2. Fault; offense; crime.

The *transgression* is in the stealer. *Shak.*

Syn. — Fault; offense; crime; infringement; misdemeanor; misdeed; affront.

Trans-grĕs′sion-al (-grĕsh′un-al), *a.* Pertaining to, or involving, a transgression.

Trans-grĕss′ive, *a.* [Lat. *transgressivus*, Fr. *transgressif*.] Disposed to transgress; faulty; culpable.

Adam, perhaps, would have sinned without the suggestion of Satan, and from the *transgressive* infirmities of himself might have erred alone, as well as the angels before him. *Browne.*

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Co-par'ce-na-ry [illegible]

Co-par'ce-ner [illegible]

Co-par'cen-y [illegible]

Co-part' [illegible]

Co-part'ment [illegible]

Co-part'ner [illegible]

Co-part'ner-ship [illegible]

2 [illegible]

Co-part'ner-y [illegible]

Cop'a-tain [illegible]

Co-pa'tri-ot [illegible]

Cope [illegible]

1 [illegible]

2 [illegible]

3 [illegible]

4 [illegible]

5 [illegible]

Cope, [illegible]

Cope, *v. t.* [illegible]

Cope, *v. t.* [illegible] [OE. *copen*, [illegible], to buy, bargain, [illegible] from D. *koopen* to buy, [illegible] to bargain. See CHEAP.]

1 To exchange or barter. [*Obs.*]

2 To encounter; to meet; to have to do with.

3 To strive [illegible]; to contend; especially, to strive or contend on equal terms [illegible] with [illegible] to equal; — usually followed by *with*.

Cope, *v. t.* 1 To bargain [illegible]. [*Obs.*]

2. To make return [illegible]; to requite; to repay. [*Obs.*]

3. To match one's self against; to meet; to encounter.

I love to cope him in these sullen fits. *Shak.*

They say he yesterday coped Hector in the battle, and struck him down. *Shak.*

Cope'-chis'el (-chĭz'ĕl), *n.* A narrow chisel adapted for cutting a groove. *Knight.*

Co'peck (kō'pĕk), *n.* [Russ. *kopeika*.] A Russian copper coin. See KOPECK.

Coped (kōpt), *a.* Clad in a cope.

‖ **Cop'e-la'ta** (kŏp'ē-lā'tȧ), *n. pl.* [NL., fr. Gr. [illegible] a rower.] (*Zoöl.*) See LARVALIA.

Cope'man (kōp'man), *n.* [D. *koopman*, fr. *koopen* to buy. See COPE, *v. t.*, CHAPMAN.] A chapman; a dealer; a merchant. [*Obs.*]

He would have sold his part of paradise
For ready money, had he met a copeman. *B. Jonson.*

Cop'e-pod (kŏp'ē-pŏd), *a.* (*Zoöl.*) Of or pertaining to the Copepoda. — *n.* One of the Copepoda.

‖ **Co-pep'o-da** (kō-pĕp'ō-dȧ), *n. pl.* [NL., from Gr. [illegible] an oar + *-poda*.] (*Zoöl.*) An order of Entomostraca, including many minute Crustacea, both fresh-water and marine.

☞ They have a distinct carapace. The eggs are carried in a pair of external pouches. Some are parasites of fishes.

One of the Copepoda ([illegible]) [illegible]

Co-per'ni-can (kō-pẽr'nĭ-kan), *a.* Pertaining to Copernicus, a Prussian by birth (b. 1473, d. 1543), who taught the world the solar system now received, called the Copernican system.

Cope'smate' (kōps'māt'), *n.* An associate or companion; a friend; a partner. [*Obs.*]

Misshapen Time, copesmate of ugly Night. *Shak.*

Cope'stone' (kōp'stōn'), *n.* (*Arch.*) A stone for coping. See COPING.

Cop'i-er (kŏp'ĭ-ẽr), *n.* [From COPY.] 1. One who copies; one who writes or transcribes from an original; a transcriber.

2. An [illegible]; one who imitates an example; hence, a plagiarist.

Cop'ing (kōp'ĭng), *n.* [See COPE, *n.*] (*Arch.*) The [illegible] course of masonry in a wall, often [illegible] to carry off water; — sometimes called [illegible]. *Gwilt.*

Co'pi-ous (kō'pĭ-ŭs), *a.* [L. *copiosus*, fr. *copia* abundance. See COPY, OPULENT.] Large in [illegible]; plentiful; abundant; fruitful. [illegible] *Milton.*

Syn. — Ample; abundant; plentiful; plenteous; rich; [illegible]; overflowing; full. — See AMPLE.

Co'pi-ous-ly, *adv.* In a copious manner.

Co'pi-ous-ness, *n.* The state or quality of being copious; [illegible] abundance; diffuseness in style. [illegible]

Syn. — Abundance; plenty; richness; exuberance.

Cop'ist [illegible] See COPY. A [illegible]

Co-plan'ar [illegible]

Cop'land (kŏp'land), *n.* [*Cop* + *land*.] A piece of ground terminating in a point or acute angle. [*Obs.*]

Co-por'tion (kō-pōr'shŭn), *n.* Equal share. [*Obs.*]

[illegible] *Spenser.*

Copped (kŏpt), *a.* [From COP.] Rising to a point or [illegible]; pointed; crested. *Wiseman.*

Cop'pel (kŏp'pĕl), *n.* & *v.* See CUPEL.

Cop'per (kŏp'pẽr), *n.* [OE. *coper*, [illegible]. D. *koper*, Sw. *koppar*, Dan. *kobber*, G. *kupfer*, LL. *cuper*, fr. L. *cuprum* for earlier *Cyprium*, *Cyprium aes*, i. e., Cyprian brass, fr. Gr. Κύπριος of Cyprus (Gr. Κύπρος), anciently renowned for its copper mines. Cf. CYPRESS.] 1. A common metal of a reddish color, both ductile and malleable, and very tenacious. It is one of the best conductors of heat and electricity. [illegible] Atomic weight [illegible] It is one of the most useful metals in itself, and [illegible]

☞ Copper is the [illegible] metal which occurs native [illegible] in large masses. It is found also in various [illegible] Copper united with tin forms bell metal; with a smaller proportion, bronze; and with zinc, it forms brass, pinchbeck, and other alloys.

2 A coin made of copper; a penny, cent, or other minor coin [illegible]

[illegible] *Beaumont.*

3 A vessel, especially a large boiler, made of copper.

4 *pl.* Specifically (*Naut.*), the boilers in the galley for cooking; as, a ship's coppers.

☞ [illegible] is often used adjectively, commonly in the sense of *made of*, *consisting of copper*, or *resembling copper*; as, a copper boiler, tube, etc.

[illegible]

It is sometimes written in combination; as, copperplate, coppersmith, copperworks.

Copper finch [illegible] See CHAFFINCH. — **Copper glance**, or Vitreous copper (*Min.*), See CHALCOCITE. — **Indigo copper** (*Min.*), See COVELLITE.

Cop'per, *v. t.* [*imp.* & *p. p.* COPPERED (-pẽrd); *p. pr.* & *vb. n.* COPPERING.] To cover or coat with copper; to sheathe with sheets of copper; as, to *copper* a ship.

Cop'per-as (kŏp'pẽr-as), *n.* [OE. *coperose*, F. *couperose*, fr. assumed [illegible] L. *cuprirosa*, equiv. to Gr. χάλκανθος, i. e., copper flower, vitriol. See COPPER, and ROSE.] Green vitriol, or sulphate of iron; a green crystalline substance, of an astringent taste, used in making ink, in dyeing blacks, as a tonic in medicine, etc. It is made on a large scale by the oxidation of iron pyrites. Called also *ferrous sulphate*.

☞ The term *copperas* was formerly synonymous with *vitriol*, and included the green, blue, and white vitriols, or the sulphates of iron, copper, and zinc.

Cop'per-bot'tomed (-bŏt'tŭmd), *a.* Having a bottom made of copper, as a tin boiler or other vessel, or sheathed with copper, as a ship.

Cop'per-faced (-fāst'), *a.* Faced or covered with copper; as, *copper-faced* type.

Cop'per-fas'tened (-fas'n'd), *a.* Fastened with copper bolts, as the planks of ships, etc.; as, a *copper-fastened* ship.

Cop'per-head' (-hĕd'), *n.* [From its color.] 1. (*Zoöl.*) A poisonous American serpent (*Ancistrodon contortrix*), closely allied to the rattlesnake, but without rattles; — called also *copper-belly*, and *red viper*.

2. A nickname applied to a person in the Northern States who sympathized with the South during the Civil War. [*U. S.*]

Cop'per-ing, *n.* 1. The act of covering with copper.

2. An envelope or covering of copper.

Cop'per-ish, *a.* Containing, or partaking of the nature of, copper; like copper; as, a copperish taste.

Cop'per-nick'el (-nĭk'ĕl), *n.* (*Min.*) Niccolite.

Cop'per-nose' (-nōz'), *n.* A red nose. *Shak.*

Cop'per-plate' (kŏp'pẽr-plāt'), *n.* (*a*) A plate of polished copper on which a design or writing is engraved. (*b*) An impression on paper taken from such a plate.

☞ In printing from a copper- or steel-plate the lines are filled with ink, the surface of the plate is wiped clean, the paper laid upon it, and the impression taken by pressing it under the roller of a plate press.

Copperplate press. See *Plate press*, under PLATE.

Cop'per-smith' (-smĭth'), *n.* One whose occupation is to manufacture copper utensils; a worker in copper.

Cop'per-works' (-wûrks'). A place where copper is wrought or manufactured. *Woodward.*

Cop'per-worm' (-wûrm'), *n.* (*Zoöl.*) (*a*) The teredo; — so called because it injures the bottoms of vessels, where not protected by copper. (*b*) The ringworm.

Cop'per-y (-ȳ), *a.* Mixed with copper; containing copper, or made of copper; like copper.

Cop'pice (kŏp'pĭs), *n.* [OF. *copeiz*, fr. *cop*[illegible] to cut, F. *couper*, fr. *cop*, *coup*, *colp*, a blow [illegible] L. *colaphus*, fr. Gr. κόλαφος. Cf. COPSE, and [illegible] COUPEE.] A grove of small growth; a thick[illegible] wood; a wood cut at certain times for fuel or [illegible] poses. See COPSE.

The rate of coppice lands will fall, upon the dis[illegible]

Cop'pin (kŏp'pĭn), *n.* [See COP.] A cop[illegible]

Cop'ple (kŏp'p'l), *n.* [A dim. of COP.] [illegible] rising in a conical shape; specifically, a hi[illegible] a point.

A few [illegible] upon its copple not very hig[illegible]

Cop'ple-crown (-kroun), *n.* A crested or [illegible] crown or head. "Like the *copple-crown* [illegible] has." *T. Randolph.* — **Cop'ple-crowned** (-[illegible]

Cop'pled (kŏp'p'ld), *a.* [From COPPLE.] [illegible] a point; conical; copped. [*Obs.*]

Cop'ple dust (kŏp'p'l dŭst). Cupel dus[illegible]

Powder of steel, or copple dust. [illegible]

Cop'ple-stone (-stōn'), *n.* A cobblestone[illegible]

Coppy (kŏp'pȳ), *n.* See COPSE. [*Obs.*]

Co'pra (kō'prȧ), *n.* [Malayâlam *koppa*[illegible] *kopparâ*.] (*Com.*) The dried meat of the coc[illegible] which cocoanut oil is expressed. [Written [illegible] *copperah*, *coprah*.]

Cop'ro-lite (kŏp'rō-līt), *n.* [Gr. κόπρος du[illegible] *-lite*.] A piece of petrified dung; a fossil [illegible]

Cop'ro-lit'ic (-lĭt'ĭk), *a.* Containing, pe[illegible] or of the nature of, coprolites.

Co-proph'a-gan (kō-prŏf'ȧ-gan), *n.* [See [illegible] next.] (*Zoöl.*) A kind of beetle which feeds [illegible]

Co-proph'a-gous (-gŭs), *a.* [Gr. κόπρος [illegible] + φαγεῖν to eat.] (*Zoöl.*) Feeding upon du[illegible]; said of certain insects.

Cop'-rose (kŏp'rōz), *n.* The red popp[illegible] *Rhœas*, with a roselike flower and a capsul[illegible] shape; corn poppy. [Written also *cup-rose*[illegible]

Cops (kŏps), *n.* [AS. *cops*, *cosp*, fetter. [illegible] necting crook of a harrow. *Prov. Eng.*]

Copse (kŏps), *n.* [Contr. from *coppice*.] [illegible] small growth; a thicket of brushwood. See [illegible]

Nearly [illegible] where may be [illegible]

Copse, *v. t.* 1. To trim or cut; — said of [illegible] brushwood, tufts of grass, etc.

2 To plant and preserve, as a copse.

Copse'wood' (-wŏŏd'), *n.* Brushwood, co[illegible]

Cops'y (kŏps'ȳ), *a.* Characterized by cop[illegible] villages." "*Copsy* banks."

Cop'tic (kŏp'tĭk), *a.* [Abbrev. from L. [illegible] Egyptian, Gr. Αἰγύπτιος, Ar. *Qobt*, pl. *Kibt*.] [illegible] taining to the Copts. — *n.* The language o[illegible]

Copts (kŏpts), *n. pl.*; *sing.* COPT (kŏpt) [illegible] TIC.] (*Ethnol.*) 1. An Egyptian race [illegible] scendants of the ancient Egyptians.

2. The principal sect of Christians in Eg[illegible] valley of the Nile.

☞ They belong to the Jacobite sect of [illegible] Christians, and for eleven centuries have be[illegible] of the patriarchal chair of Alexandria.

Cop'u-la (kŏp'ū-lȧ), *n.* [L., bond, band. [illegible]

1. (*Logic* & *Gram.*) The word which uni[illegible] ject and predicate.

2 (*Mus.*) The stop which connects the [illegible] the manuals with the pedals; — called also [illegible]

Cop'u-late (kŏp'ū-lāt), *a.* [L. *copulatus*, [illegible] *lare* to couple, fr. *copula*. See COPULA.] [illegible] associated; coupled. [*Obs.*]

2. (*Gram.*) Joining subject and predica[illegible] tive.

Cop'u-late (-lāt), *v. i.* [*imp.* & *p. p.* CO[illegible] *pr.* & *vb. n.* COPULATING.] To unite in s[illegible] course; to come together in the act of gener[illegible]

Cop'u-la'tion (kŏp'ū-lā'shŭn), *n.* [L. co[illegible] F. *copulation*.] 1. The act of coupling [illegible] union; conjunction.

Wit, you know, is the unexpected copulation of id[illegible]

2. The coming together of male and fema[illegible] of generation; sexual union; coition.

Cop'u-la-tive (kŏp'ū-lā-tĭv), *a.* [L. *copu*[illegible] F. *copulatif*.] Serving to couple, unite, or [illegible] a *copulative* conjunction like "and."

Cop'u-la-tive, *n.* 1. Connection. [*Obs.*]

2. (*Gram.*) A copulative conjunction.

Cop'u-la-tive-ly, *adv.* In a copulative m[illegible]

Cop'u-la-to-ry (kŏp'ū-lȧ-tō-rȳ), *a.* 1. P[illegible] copulation; tending or serving to unite; co[illegible]

2. (*Zoöl.*) Used in sexual union; as, th[illegible] organs of insects.

Cop'y (kŏp'ȳ), *n.*; *pl.* COPIES (-ĭz). [F. [illegible] *copia* abundance, number, LL. also, a transc[illegible] the root of *opes* riches. See OPULENT, and [illegible]

1. An abundance or plenty of anything. [illegible]

She was blessed with no more copy of wit, but [illegible] humor thus.

2. An imitation, transcript, or reproduc[illegible] original work; as, a *copy* of a letter, an [illegible] a painting, or a statue.

I have not the vanity to think my copy equal to [illegible]

3. An individual book, or a single set of [illegible] taining the works of an author; as, a *copy* o[illegible] a copy of the works of Addison.

4. That which is to be imitated, transcribe[illegible] duced; a pattern, model, or example; as, [illegible] are an excellent *copy* for imitation.

Let him first learn to write, after a copy, all the le[illegible]

5. (*Print.*) Manuscript or printed matter [illegible] in type; as, the printers are calling for mor[illegible]

The copy is at the press [illegible]

6. A writing paper of a particular size. Same as Bastard. See under Paper.

7. Copyhold; tenure; lease. [*Obs.*] *Shak.*

Copy book, a book in which copies are written or printed for learners to imitate. — **Examined copies** (*Law*), those which have been compared with the originals. — **Exemplified copies**, those which are attested under seal of a court. — **Certified** *or* **Office copies**, those which are made or attested by officers having charge of the originals, and authorized to give copies officially. *Abbott.*

Syn. — Imitation; transcript; duplicate; counterfeit.

Cop'y (kŏp'ȳ), *v. t.* [*imp. & p. p.* Copied (-ĭd); *p. pr. & vb. n.* Copying.] [Cf. F. *copier*, fr. LL. *copiare*. See Copy, *n.*] 1. To make a copy or copies of; to write, print, engrave, or paint, after an original; to duplicate; to reproduce; to transcribe; as, to *copy* a manuscript, inscription, design, painting, etc.; — often with *out*, sometimes with *off*.

I like the work well: ere it be demanded
(As like enough it will), I'd have it *copied*. *Shak.*

Let this be *copied* out,
And keep it safe for our remembrance. *Shak.*

2. To imitate; to attempt to resemble, as in manners or course of life.

We *copy* instinctively the voices of our companions, their accents, and their modes of pronunciation. *Stewart.*

Cop'y, *v. i.* 1. To make a copy or copies; to imitate.

2. To yield a duplicate or transcript; as, the letter did not *copy* well.

Some . . . never fail, when they copy, to follow the bad as well as the good things. *Dryden.*

Cop'y-er (-ẽr), *n.* See Copier.

Cop'y-graph (-grȧf), *n.* A contrivance for producing manifold copies of a writing or drawing.

☞ The writing or drawing is made with aniline ink on paper, and a reverse copy transferred by pressure to a slab of gelatin softened with glycerin. A large number of transcripts can be taken while the ink is fresh.

Various names have been given to the process (the gelatin copying process), some of them acceptable and others absurd: hectograph, polygraph, copygraph, lithogram, etc. *Knight.*

Cop'y-hold' (-hōld'), *n.* (*Eng. Law*) (*a*) A tenure of estate by copy of court roll; or a tenure for which the tenant has nothing to show, except the rolls made by the steward of the lord's court. *Blackstone.* (*b*) Land held in copyhold. *Milton.*

☞ *Copyholds* do not exist in the United States.

Cop'y-hold'er (-hōld'ẽr), *n.* 1. (*Eng. Law*) One possessed of land in copyhold.

2. (*Print.*) (*a*) A device for holding copy for a compositor. (*b*) One who reads copy to a proof reader.

Cop'y-ing, *a.* & *n.* From Copy, *v.*

Copying ink. See under Ink. — **Copying paper**, thin unsized paper used for taking copies of letters, etc., in a copying press. — **Copying press**, a machine for taking by pressure an exact copy of letters, etc., written in copying ink.


Copying Press.

Cop'y-ist, *n.* A copier; a transcriber; an imitator; a plagiarist.

Cop'y-right' (-rīt'), *n.* The right of an author or his assignee, under statute, to print and publish his literary or artistic work, exclusively of all other persons. This right may be had in maps, charts, engravings, plays, and musical compositions, as well as in books.

☞ In the United States a copyright runs for the term of twenty-eight years, with right of renewal for fourteen years on certain conditions.

International copyright, an author's right in his productions as secured by treaty between nations.

Cop'y-right', *v. t.* To secure a copyright on.

‖ **Coque'li-cot'** (kōk'lĭ-kō'), *n.* [F.] 1. (*Bot.*) The wild poppy, or red corn rose.

2. The color of the wild poppy; a color nearly red, like orange mixed with scarlet.

Co-quet' (kō-kĕt'), *v. t.* [*imp. & p. p.* Coquetted; *p. pr. & vb. n.* Coquetting.] [See Coquette.] To attempt to attract the notice, admiration, or love of; to treat with a show of tenderness or regard, with a view to deceive and disappoint.

You are coquetting a maid of honor. *Swift.*

Co-quet', *v. i.* To trifle in love; to simulate affection or interest; to play the coquette; to deal playfully instead of seriously; to play (with); as, we have *coquetted* with political crime.

Co-quet'ry (-rȳ), *n.*; *pl.* Coquetries (-rĭz). [F. *coquetterie*.] Attempts to attract admiration, notice, or love, for the mere gratification of vanity; trifling in love. "Little affectations of *coquetry*." *Addison.*

Co-quette' (kō-kĕt'), *n.* [F., fr. *coquet*, *coquette*, coquettish, orig., cocklike, strutting like a cock, fr. *coq* a cock. Cf. Cock, Cocket, Cocky, Cockade.] 1. A vain, trifling woman, who endeavors to attract admiration from a desire to gratify vanity; a flirt; — formerly sometimes applied also to men.

2. (*Zoöl.*) A tropical humming bird of the genus *Lophornis*, with very elegant neck plumes. Several species are known. See *Illustration* under Spangle, *v. t.*

Co-quet'tish (kō-kĕt'tĭsh), *a.* Practicing or exhibiting coquetry; alluring; enticing.

A pretty, coquettish housemaid. *W. Irving.*

Co-quet'tish-ly, *adv.* In a coquettish manner.

[illegible]

consisting principally of sulphate of iron; white copperas; — so called because found in the province of *Coquimbo*, Chili.

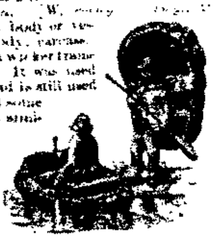
‖ **Co-qui'na** (kō-kē'na), *n.* [Sp., shellfish, cockle.] A soft, whitish, coral-like stone, formed of broken shells and corals, found in the southern United States, and used for roadbeds and for building material, as in the fort at St. Augustine, Florida. [illegible]

Cor- (kŏr-). A prefix signifying *with*, *together*, etc. See Com-.

Cor (kŏr), *n.* [Heb. *kōr*.] A Hebrew measure of capacity; a homer. [Written also *core*.]

Co'ra (kō'rȧ), *n.* (*Zoöl.*) The Arabian gazelle (*Gazella Arabica*), found from Persia to North Africa.

Cor'a-cle (kŏr'ȧ-k'l), *n.* [W. [illegible]] any round body or vessel, the trunk of the body, carcass.] A boat made by covering a wicker frame with leather or oilcloth. It was used by the ancient Britons, and is still used by fishermen in Wales and some parts of Ireland. Also, a similar boat used in Thibet and in Egypt.


Coracles.

Cor'a-coid (kŏr'ȧ-koid), *a.* [Gr. [illegible]; [illegible] crow + [illegible] form.] 1. Shaped like a crow's beak.

2. (*Anat.*) Pertaining to a bone of the shoulder girdle in most birds, reptiles, and amphibians, which is reduced to a process of the scapula in most mammals.

Cor'a-coid, *n.* The coracoid bone or process.

Cor'age (kŏr'āj), [OF. *corage*.] *n.* See Courage. [*Obs.*]

To Canterbury with [illegible] *Chaucer.*

Cor'al (kŏr'al), *n.* [OF. *coral*, F. *corail*, L. *corallum*, *corallium*, fr. Gr. κοράλλιον.]

1. (*Zoöl.*) The hard parts or skeleton of various Anthozoa, and of a few Hydrozoa. Similar structures are also formed by some Bryozoa.

☞ The large stony corals forming coral reefs belong to various genera of *Madreporaria*, and to the hydroid genus, *Millepora*. The red coral, used in jewelry, is the stony axis of the stem of a gorgonian (*Corallium rubrum*) found chiefly in the Mediterranean. The *fan corals*, *plume corals*, and *sea feathers* are species of *Gorgoniacea*, in which the axis is horny. *Organ-pipe* coral is formed by the genus *Tubipora*, an Alcyonarian, and *black coral* is in part the axis of species of the genus *Antipathes*. See Anthozoa, Madrepora.


Red Coral [illegible]

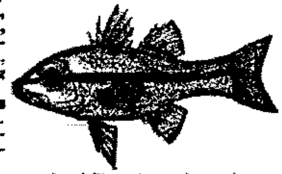
2. The ovaries of a cooked lobster; — so called from their color.

3. A piece of coral, usually fitted with small bells and other appurtenances, used by children as a plaything.

Brain coral, *or* **Brain stone coral**. See under Brain. — **Chain coral**. See under Chain. — **Coral animal** (*Zoöl.*), one of the polyps by which corals are formed. They are often very erroneously called *coral insects*. — **Coral fish**. See in the Vocabulary. — **Coral reefs** (*Phys. Geog.*), reefs, often of great extent, made up chiefly of fragments of corals, coral sands, and the solid limestone resulting from their consolidation. They are classed as *fringing reefs*, when they border the land; *barrier reefs*, when separated from the shore by a broad belt of water; *atolls*, when they constitute separate islands, usually inclosing a lagoon. See Atoll. — **Coral root** (*Bot.*), a genus (*Corallorhiza*) of orchideous plants, of a yellowish or brownish red color, parasitic on roots of other plants, and having curious jointed or knotted roots not unlike some kinds of coral. See *Illust.* under Corallorhiza. — **Coral snake** (*Zoöl.*) (*a*) A small, venomous, Brazilian snake (*Elaps corallinus*), coral-red, with black bands. (*b*) A small, harmless, South American snake (*Tortrix scytale*). — **Coral tree** (*Bot.*), a tropical, leguminous plant, of several species, with showy, scarlet blossoms and coral-red seeds. The best known is *Erythrina Corallodendron*. — **Coral wood**, a hard, red cabinet wood. *McElrath.*

Cor'aled (-ald), *a.* Having coral; covered with coral.

Cor'al fish' (kŏr'al fĭsh'). (*Zoöl.*) Any bright-colored fish of the genera *Chætodon*, *Pomacentrus*, *Apogon*, and related genera, which live among reef corals.


Coral Fish (*Apogon fremantus*).

Cor'al-la'ceous (kŏr'ăl-lā'shŭs), *a.* Like coral, or partaking of its qualities.

Co-ral'li-an (kō-răl'lĭ-an), *n.* (*Geol.*) A deposit of coralliferous limestone forming a portion of the middle division of the oölite; — called also *coral-rag*.

Cor'al-lif'er-ous (kŏr'ăl-lĭf'ẽr-ŭs), *a.* [L. *corallum* coral + *-ferous*.] Containing or producing coral.

Cor'al-li-form (kŏr'ăl-lĭ-fôrm or kō-răl'-), *a.* [L. *corallum* coral + *-form*.] Resembling coral in form.

‖ **Cor'al-lig'e-na** (kŏr'ăl-lĭj'ē-nȧ), *n. pl.* [NL., fr. L. *corallum* coral + root of *gignere* to produce.] (*Zoöl.*) Same as Anthozoa.

Cor'al-lig'e-nous (-nŭs), *a.* Producing coral; coralligerous; coralliferous. *Humble.*

Cor'al-lig'er-ous (-ẽr-ŭs), *a.* [L. *corallum* coral + *-gerous*.] Producing coral; coralliferous.

Cor'al lin [illegible]

Cor'al line [illegible]

Cor'al line [illegible]

Cor'al lin ite [illegible]

Cor'al loid [illegible]

Cor'al loid al [illegible]

Co ral lum [illegible]

Cor'al rag [illegible]

Cor'al wort [illegible]

Cor'a nach [illegible]

Co rant [illegible]

Co-ran'to [illegible]

Corb [illegible]

Cor'ban [illegible]

Corbe [illegible]

Cor'beil [illegible] little basket [illegible] [illegible] (*Arch.*) A [illegible]

2. [illegible] Small gabion [illegible]

Cor'bel (kôr'bĕl), *n.* [illegible] dim. of L. *corbis* basket. (Corbels were often in the form of a basket.) See Corbeil.] (*Arch.*) A bracket supporting a superincumbent object, or receiving the spring of an arch. Corbels were employed largely in Gothic architecture.


Corbel [illegible]

☞ A common form of corbel consists of courses of stones or bricks, each projecting slightly beyond the [illegible]

Cor'bel, *v. t.* To furnish with a corbel; to support by a corbel; to make in the form of a corbel.

To corbel out, to furnish with a corbel [illegible] projecting beyond the wall [illegible]

Cor'bel-ta'ble (-tā'b'l), *n.* (*Arch.*) A [illegible] of corbels, with the panels or filling between; less properly used to include the stringcourse [illegible]

Cor'bie *or* **Cor'by** (kôr'bĭ), *n.* [illegible] *corbeau*, OF. *corbel*, dim. fr. L. *corvus* raven.] The raven. [*Scot.*]

2. (*Her.*) A raven, crow, or chough, used [illegible]

Corbie crow, the carrion crow. [*Scot.*]

Cor'bie-step' (kôr'bĭ-stĕp'), *n.* (*Arch.*) [illegible] steps in which a gable wall is often finished [illegible] a continuous slope; — also called *crowstep*.

Cor'cho-rus (kôr'kō-rŭs), *n.* [NL., fr. [illegible] a poor kind of pulse, Gr. κόρχορος a wild [illegible] taste.] (*Bot.*) The common name of the *Kerria* [illegible] ica or Japan globeflower, a yellow-flowered [illegible] raceous plant, seen in old-fashioned gardens.

Cor'cle (kôr'k'l), *n.* [L. *corculum* a [illegible]

Cor'cule (-kūl), dim. of *cor* heart.] [illegible] heart of the seed; the embryo or germ. [illegible]

Cord (kôrd), *n.* [F. *corde*, L. *chorda* [illegible] string, fr. Gr. χορδή; cf. χολάδες intestines, [illegible] *aulaxe* (inspector of entrails), Icel. *görn*, [illegible] gut, and E. yarn. Cf. Chord, Yarn.] 1. A [illegible] small rope, composed of several strands twisted [illegible]

2. A solid measure, equivalent to 128 cu[illegible]

Tran-scribe′ (trăn-skrīb′), *v. t.* [*imp.* & *p. p.* TRANSCRIBED (-skrībd′); *p. pr.* & *vb. n.* TRANSCRIBING.] [L. *transcribere*, *transcriptum*; *trans* across, over + *scribere* to write. See SCRIBE.] To write over again, or in the same words; to copy; as, to *transcribe* Livy or Tacitus; to *transcribe* a letter.

Tran-scrib′er (-ẽr), *n.* One who transcribes, or writes from a copy; a copier; a copyist.

Tran′script (trăn′skrĭpt), *n.* [L. *transcriptum*, neut. of *transcriptus*, p. p. of *transcribere*. See TRANSCRIBE.]

1. That which has been transcribed; a writing or composition consisting of the same words as the original; a written copy.

The decalogue of Moses was but a *transcript* [illegible]

2. A copy of any kind; an imitation.

The Grecian learning was but a *transcript* [illegible] and Egyptian. [illegible]

Tran-scrip′tion (trăn-skrĭp′shŭn), *n.* [illegible] *scription*, L. *transcriptio* a transfer.] **1.** The act or process of transcribing, or copying; as, corruptions creep into books by repeated *transcriptions*.

2. A copy; a transcript. *Walton.*

3. (*Mus.*) An arrangement of a composition for some other instrument or voice than that for which it was originally written, as the translating of a song, a vocal or instrumental quartet, or even an orchestral work, into a piece for the piano; an adaptation; an arrangement; — a name applied by modern composers for the piano to a more or less fanciful and ornate reproduction, on their own instrument, of a song or other piece not originally intended for it; as, Liszt's *transcriptions* of songs by Schubert.

Tran-scrip′tive (-tĭv), *a.* Done as from a copy; having the style or appearance of a transcription. [illegible]

Tran-scrip′tive-ly, *adv.* [*R.*] *Sir T. Browne.*

Trans-cur′ (trăns-kûr′), *v. i.* [L. *transcurrere*, *transcursum*; *trans* across, over + *currere* to run.] To run or rove to and fro. [*Obs.*] *Bacon.*

Trans-cur′rence (-kŭr′rens), *n.* [L. *transcurrens*, p. pr. of *transcurrere*.] A roving hither and thither.

Trans-cur′sion (-kûr′shŭn), *n.* [Cf. L. *transcursus* a passing over. See TRANSCUR.] A rambling or ramble; a passage over bounds; an excursion. [*Obs.*] *Howell.*

Trans-di′a-lect (-dī′a-lĕkt), *v. t.* [Pref. *trans-* + *dialect*.] To change or translate from one dialect into another. [*R.*] *Bp. Warburton.*

Trans-duc′tion (-dŭk′shŭn), *n.* [L. *transducere*, *traducere*, *-ductum*, to lead across or over. See TRADUCE.] The act of conveying over. [*R.*] *Knowles.*

Transe (trăns), *n.* See TRANCE. [*Obs.*]

Trans-el′e-ment (trăns-ĕl′ē-mĕnt), } *v. t.* [Pref.
Trans-el′e-men′tate (-ĕl′ē-mĕn′tāt), } *trans-* + *element*.] To change or transpose the elements of; to transubstantiate. [*Obs.*] *Jer. Taylor.*

Trans-el′e-men-ta′tion (-mĕn-tā′shŭn), *n.* [Cf. F. *transélémentation*.] (*Eccl.*) Transubstantiation. [*Obs.*]

Tran′senne (trăn′sĕn), *n.* A transom. [*Obs.*]

Tran′sept (-sĕpt), *n.* [Pref. *trans-* + L. *septum* an inclosure. See SEPTUM.] (*Arch.*) The transversal part of a church, which crosses at right angles to the greatest length, and between the nave and choir. In the basilicas, this had often no projection at its two ends. In Gothic churches these project greatly, and should be called the arms of the transept. It is common, however, to speak of the arms themselves as the *transepts*.

Tran-sex′ion (trăn-sĕk′shŭn), *n.* [Pref. *trans-* + L. *sexus* sex.] Change of sex. [*Obs.*] *Sir T. Browne.*

Trans-fem′i-nate (trăns-fĕm′ĭ-nāt), *v. t.* [Pref. *trans-* + L. *femina* woman.] To change into a woman, as a man. [*Obs.* & *R.*] *Sir T. Browne.*

Trans-fer′ (-fẽr′), *v. t.* [*imp.* & *p. p.* TRANSFERRED (-fẽrd′); *p. pr.* & *vb. n.* TRANSFERRING.] [L. *transferre*; *trans* across, over + *ferre* to bear: cf. F. *transférer*. See BEAR to carry.] **1.** To convey from one place or person to another; to transport, remove, or cause to pass, to another place or person; as, to *transfer* the laws of one country to another; to *transfer* suspicion.

2. To make over the possession or control of; to pass; to convey, as a right, from one person to another; to give; as, the title to land is *transferred* by deed.

3. To remove from one substance or surface to another; as, to transfer drawings or engravings to a lithographic stone. *Tomlinson.*

Syn. — To sell; give; alienate; estrange; sequester.

Trans′fer (trăns′fẽr), *n.* **1.** The act of transferring, or the state of being transferred; the removal or conveyance of a thing from one place or person to another.

2. (*Law*) The conveyance of right, title, or property, either real or personal, from one person to another, whether by sale, by gift, or otherwise.

I shall here only consider it as a *transfer* of property. *Burke.*

3. That which is transferred. Specifically: —

(*a*) A picture, or the like, removed from one body or ground to another, as from wood to canvas, or from one piece of canvas to another. *Fairholt.*

(*b*) A drawing or writing printed off from one surface on another, as in ceramics and in many decorative arts.

(*c*) (*Mil.*) A soldier removed from one troop, or body of troops, and placed in another.

4. (*Med.*) A pathological process by virtue of which a unilateral morbid condition on being abolished on one side of the body makes its appearance in the corresponding region upon the other side.

Transfer day, one of the days fixed by the Bank of England for the transfer, free of charge, of bank stock and government funds. These days are the first five business days in the week before three o'clock. Transfers may be made on Saturdays on payment of a fee of 2s. 6d. *Bithell.* — *Transfer office*, an office or department where transfers of stocks, etc., are made. — *Transfer paper*, a prepared paper used by draughtsmen, engravers, lithographers, etc., for transferring impressions. — *Transfer table*. (*Railroad*) Same as *Traverse table*. See under TRAVERSE.

Trans-fer′a-bil′i-ty [illegible] The quality or state of being transferable.

Trans-fer′a-ble (trăns-fẽr′a-b'l) [illegible] [Cf. F. *transférable*.] [illegible]

1. Capable of being transferred or conveyed from one place or person to another.

2. Negotiable, as a note, bill of exchange, or other evidence of property, that may be conveyed from one person to another by indorsement or other writing; capable of being transferred [illegible] stocks of bank [illegible] to acts are not [illegible]

Trans-fer-ee′ [illegible] a transfer is made.

Trans′fer-ence [illegible] ferring [illegible]

Trans-fer-og′ra-phy [illegible] of [illegible]

Trans-fer′rence [illegible] TRANSFERENCE.

Trans-fer′rer [illegible] One who makes a transfer or conveyance.

Trans-fer′ri-ble [illegible] of being transferred; transferable.

Trans-fig′u-rate [illegible] to transform [illegible]

Trans-fig′u-ra′tion [illegible] of F. [illegible] **1.** A change of form or appearance [illegible] appearance [illegible]

2. [illegible]

Trans-fig′ure [illegible] *transfigurer*, L. [illegible] across, over + *figurare* to form, shape [illegible] **1.** To change the outward form or appearance of; to metamorphose; to transform.

2. Especially, to change to something exalted and glorious; to give an ideal form to.

Jesus [illegible] was transfigured before them: and his face did shine as the sun, and his raiment [illegible]

Trans-fix′ (-fĭks′) [illegible] TRANSFIXED (-fĭkst′); *p. pr.* & [illegible] p. p. of *transfigere* to transfix [illegible] + *figere* to fix, fasten. See FIX.] [illegible] as with a pointed weapon; to pierce [illegible] with a dart.

Trans-fix′ion (-fĭk′shŭn), *n.* The act of transfixing, or the state of being transfixed, or pierced.

Christ shed blood [illegible] in his scourging, [illegible] transfixion.

Trans-flu-ent (trăns′flū-ent), *a.* [Pref. *trans-* + *fluent*.] **1.** Flowing or running across or through; as, a *transfluent* stream.

2. (*Her.*) Passing or flowing through a bridge; — said of water.

Trans′flux (-flŭks), *n.* [Pref. *trans-* + *flux*.] A flowing through, across, or beyond. [*R.*]

Trans′fo-rate [illegible] [L. *transforatus*, p. p. of *transforare* to pierce through [illegible] through + *forare* to bore.] To bore through. [illegible]

Trans-form′ [illegible] TRANSFORMED (-fôrmd′); [illegible] TRANSFORMING.] [L. *transformare* [illegible] *formare* to form [illegible]

1. To change the form of; to change in shape or appearance; to metamorphose; as, a caterpillar is ultimately *transformed* into a butterfly.

[illegible]

2. To change into another substance; to transmute; as, the alchemists sought to transform lead into gold.

3. To change in nature, disposition, heart, character, or the like; to convert.

Be ye *transformed* by the renewing of your mind. *Rom. xii. 2.*

4. (*Math.*) To change, as an algebraic expression or geometrical figure, into another form without altering its value.

Trans-form′, *v. i.* To be changed in form; to be metamorphosed. [*R.*]

His hair transforms to down. *Addison.*

Trans-form′a-ble (-ȧ-b'l), *a.* Capable of being transformed or changed.

Trans′for-ma′tion (trăns′fŏr-mā′shŭn), *n.* [L. *transformatio*: cf. F. *transformation*.] The act of transforming, or the state of being transformed; change of form or condition. Specifically: —

(*a*) (*Biol.*) Any change in an organism which alters its general character and mode of life, as in the development of the germ into the embryo, the egg into the animal, the larva into the insect (*metamorphosis*), etc.; also, the change which the histological units of a tissue are prone to undergo. See METAMORPHOSIS.

(*b*) (*Physiol.*) Change of one form of material into another, as in assimilation; metabolism; metamorphosis.

(*c*) (*Alchemy*) The imagined possibility or actual change of one metal into another, as of copper or tin into gold; transmutation.

(*d*) (*Theol.*) A change in disposition, heart, character, or the like; conversion.

(*e*) (*Math.*) The change, as of an equation or quantity, into another form without altering the value.

Trans-form′a-tive (-fôrm′ȧ-tĭv), *a.* [Cf. F. *transformatif*.] Having power, or a tendency, to transform.

Trans-form′ism (-ĭz'm), *n.* [F. *transformisme*.] (*Biol.*) The hypothesis, or doctrine, that living beings have originated by the modification of some other previously existing forms of living matter; — opposed to *abiogenesis*.

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6. A plate of iron worn to protect the sole of the foot, or the shoe, when digging with a spade; also, the part of the spade against which the foot is forced in digging.

tram′ple (trăm′p'l), v. t.; TRAM′PLED (-p'ld); TRAM′PLING (-pling). [ME. *trampelen*, freq. of *trampen*. See TRAMP, v. t.] To tread under foot; to tread down; to crush by or as if by treading; as, to *trample* grass or flowers. *Dryden.*

Neither cast ye your pearls before swine, lest they *trample* them under their feet. *Matt.* vii. 6.

tram′ple, v. i. 1. To tread rapidly and forcibly; to stamp; esp., to tread or stamp with or as if with contempt; — often with *on* or *upon*; as, to *trample* on one's feelings.
2. By extension, to move with a motion or sound likened to treading or stamping; as, the *trampling* of the surf.

tram′ple, n. Act or sound of trampling; a heavy and repeated tread of or as of many feet.

tram rail. A rail for a track for trams; specif.: a In early usage, a rail of tram plates, as distinguished from the later edge rail. b *Mach.* An overhead rail on which a trolley runs to convey a load, as in a shop.

tram′road′ (trăm′rōd′), n. [*tram* a coal wagon + *road*.] A road prepared for trams or wagons, by forming the wheel tracks of smooth beams of wood (usually metal-faced), blocks of stone, tram plates, or rails; a railway in a mine.

tram′way′ (-wā′), n. A way for trams; as: a A tramroad. b A street railway. *Eng.* c An overhead tram rail; also, a ropeway.

trance (trȧns), n. [ME. *tra(u)nce*, F. *transe* fright, in OF. also, trance, swoon, fr. *transir* to chill, benumb, be chilled, shiver, OF. also, to pass (usually from life), L. *transire* to pass over, pass away, cease. See TRANSIENT; cf. TRANSIT.]
1. A passage; passageway; as: a A lobby; hall. *Scot.* b A lane; alley; also, a courtyard; close. *Chiefly Scot.*
2. A state in which the soul seems to have passed out of the body or to be rapt into visions; ecstasy; hence, a state likened to this, due to surprise, bewilderment, shock, etc.; as, on meeting, they stood in a *trance*.

He fell into a *trance*, and saw heaven opened. *Acts* x. 10, 11.

3. *Med.* A prolonged profound or abnormal sleep, due, ordinarily, to hysteria or hypnotism, from which the patient cannot easily be aroused. Voluntary movement is suspended and the vital functions reduced very low.

trance, v. t.; TRANCED (trȧnst); TRANC′ING (trȧn′sing). [See TRANCE, n.; cf. ENTRANCE, v.] 1. To pass over or across; to traverse. *Obs. or R.* *Beau. & Fl.*
2. To entrance; enchant; to hold spellbound. *Shak.*

trank (trăngk), n. An oblong piece of skin from which glove shapes are cut; also, a shape cut from it. See GLOVE.

tran′quil (trăn′kwĭl), a. [L. *tranquillus*; prob. fr. *trans* across, over + a word akin to *quietus* quiet: cf. F. *tranquille*. See QUIET.] Quiet; calm; undisturbed; not agitated; as, a *tranquil* lake; a *tranquil* life, mind.

Syn. — See CALM.

tran′quil-i-za′tion ⎫ (-ĭ-zā′shŭn; -ī-zā′shŭn), n. A tran-
tran′quil-li-za′tion ⎭ quilizing; state of being tranquilized.

tran′quil-ize ⎫ (-īz), v. t. & i.; -IZED (-īzd); -IZ′ING (-īz′ĭng).
tran′quil-lize ⎭ [Cf. F. *tranquilliser*.] To render or become tranquil; to allay when agitated; to make calm and peaceful; as, to *tranquilize* a state; to *tranquilize* the mind.

Syn. — Quiet, compose, still, soothe, appease, calm, pacify.

tran-quil′li-ty (trăn-kwĭl′ĭ-tĭ; trăng-), n. [L. *tranquillitas*: cf. F. *tranquillité*.] Quality or state of being tranquil; calmness; composure.

trans- (trăns-; *before a vowel often* trănz-). [L. *trans* across, over; perh. orig. p. pr. of a verb meaning to cross; cf. Skr. *tar* to cross. Cf. AFTER, PENETRATE.] A prefix used mostly in words from the Latin. See CIS-, ULTRA-. *Trans-* sometimes appears shortened to *tra-*, as in *traverse*, *tradition*, and usually drops *s* before a word beginning in *s*, as in *transcribe*, *transubstantiation*. *Trans-* is used to signify: 1. a *Over, across, beyond, through*, chiefly in expressing relations of place; as in *transpose*, *transfer*, *transcend*, *transfluent*; also, rarely (and in such cases generally compounded with English words), expressing the idea of change of one thing or quality over into another; as in *transdialect*, to translate from one dialect to another, *transfeminate*. In compounds with adjectives of place it is opposed to *cis-*. These compounds are generally printed as solid words, some of them being derived from Latin compounds; as in *transalpine*, *transatlantic*, *transpadane*; some, however, are also or usually written with the hyphen, and the second element capitalized; as in *transappalachian* or *trans-Appalachian*, *transcaspian* or *trans-Caspian*, *trans-Siberian*. b *Completeness of change*, *through*, *through and through*; as in *transform*, *transfigure*.
2. In some scientific terms *trans-* has the meaning of *across*, *transversely*; as in *transfrontal*, across the frontal lobe (of the brain), *transprocess*, a transverse process, or diapophysis, of a vertebra, etc.
3. *Org. Chem.* See ALLOIOMERISM.

☞ The reference "See TRANS-" is sometimes given as the only definition of a word beginning in *trans-*, if its meaning can readily be gathered from the definitions of the prefix and the root word.

trans-act′ (trăns-ăkt′; trănz-ăkt′), v. t.; -ACT′ED; -ACT′ING. [L. *transactus*, p. p. of *transigere*. See TRANSACTION.]
1. To carry through; to do; perform; manage; conduct; as, to *transact* commercial business.
2. *Roman & Civil Law.* To make a transaction (def. 4) of.

trans-act′, v. i. To conduct matters; to negotiate; deal.

trans-ac′tion (trăns-ăk′shŭn; trănz-ăk′-), n. [L. *transactio*, fr. *transigere*, *transactum*, to drive through, carry through, accomplish, transact; *trans* across, over + *agere* to drive: cf. F. *transaction*. See ACT, AGENT.] 1. The doing or performing of any affair; management of any matter; as, the *transaction* of business.
2. That which is done or in the process of being done; an affair; as, the *transactions* on the exchange are large.
3. *pl.* The records, esp. the published records, of articles, addresses read, etc., at the meeting or meetings of a society or association; proceedings. Some societies restrict the term *transactions* to the published addresses, and *proceedings* to the published record of the business done.
4. *Roman & Civil Law.* An adjustment or compromise of a disputed claim between parties by mutual agreement.

Syn. — Proceeding, action, process.

trans-al′pine (trăns-ăl′pīn; -pĭn), a. [L. *transalpinus*; *trans* across, beyond + *Alpinus* Alpine, fr. *Alpes* the Alps; cf. F. *transalpin*.] Being on the farther side of the Alps in regard to Rome, i. e., on the north or west side of the Alps; also, of or pert. to the region or the people beyond the Alps; as, *transalpine* Gaul; — opposed to *cisalpine*. — n. A native or inhabitant of a transalpine country.

trans′at-lan′tic (trăns′ăt-lăn′tĭk), a. [*trans-* + *Atlantic*: cf. F. *transatlantique*.] Lying, being, or belonging, beyond the Atlantic Ocean; crossing the Atlantic Ocean.

trans-ca′lent (trăns-kā′lĕnt), a. [*trans-* + L. *calens*, p. pr. of *calere* to grow warm.] Pervious to, or permitting the passage of, heat. — **trans-ca′len-cy** (-lĕn-sĭ), n.

tran-scend′ (trăn-sĕnd′), v. t.; TRAN-SCEND′ED; TRAN-SCEND′ING. [L. *transcendere*, *transcensum*; *trans* beyond, over + *scandere* to climb; cf. OF. *transcender*. See SCAN.]
1. To ascend; mount. *Obs.*
2. To rise above or beyond; to overpass; as, to *transcend* the limits of debate; to *transcend* one's power.

Which man's Redeemer did transcend the skies. *Drummond.*

3. To surpass; outgo; excel; exceed.

How much her worth *transcended* all her kind. *Dryden.*

4. To cause to ascend; to elevate; raise. *Obs.*

Syn. — See EXCEED.

tran-scend′, v. i. 1. To climb; mount. *Obs.*
2. To be transcendent; to excel.

tran-scend′ence (-sĕn′dĕns) ⎫ n. [Cf. L. *transcendentia*,
tran-scend′en-cy (-dĕn-sĭ) ⎭ F. *transcendance*.] 1. Quality or state of being transcendent; superexcellence.
2. *Theol.* The doctrine that God is prior to creation in his essential nature, that he is exalted above it, and that he has real being apart from it; — opposed to *immanence*.
3. Elevation above truth; exaggeration; hyperbole. *Obs.*

tran-scend′ent (-sĕn′dĕnt), a. [L. *transcendens*, *-entis*, p. pr. of *transcendere* to transcend: cf. F. *transcendant*, G. *transcendent*.] 1. Superior or supreme; surpassing; excelling; as, *transcendent* worth; *transcendent* selfishness.
2. *Kantianism.* Transcending, or reaching beyond, the limits of human knowledge. Cf. TRANSCENDENTAL, 2.
3. *Theol.* Possessing transcendence; not immanent.

The idea that God is *transcendent*, not only exalted above the world by his moral perfection, but separated from it by the finite relations of space, is yielding to the idea of God as immanent in his creation. *A. V. G. Allen.*

Syn. — TRANSCENDENT, TRANSCENDENTAL. That is TRANSCENDENT which is of superlative quality; TRANSCENDENTAL, in ordinary language (for philosophical usage see defs.), applies esp. to opinions, theories, or sentiments which are so vague, fantastic, or extravagant as to pass one's ordinary comprehension; as, "clothed with *transcendent* brightness" (*Milton*); "this thrice-refined pabulum of *transcendental* moonshine" (*Carlyle*). See EXCEED.

tran-scend′ent, n. That which is superexcellent.

tran′scen-den′tal (trăn′sĕn-dĕn′tăl), a. [Cf. F. *transcendantal*, G. *transcendental*.] 1. Supereminent; transcendent; as, *transcendental* being or qualities.
2. *Kantianism.* Of or pertaining to that in human experience which can be determined a priori. What is *transcendental*, therefore, transcends empiricism; but it does not transcend all human knowledge, or become *transcendent*. It simply signifies the a priori and necessary conditions of experience, and is contrasted with what is empirically contingent. See KANTIANISM.
3. Fancifully speculative; hence, vaguely and ambitiously extravagant; as, a *transcendental* style of writing.
4. *Math.* Of a number, incapable of being defined by any combination of a finite number of equations with rational integral coefficients. The numbers e (= 2.71828 . . .) and π (= 3.14159 . . .) are *transcendental*. Hermite proved e (in 1873) and Lindemann π (in 1882) to be such.

Syn. — See TRANSCENDENT.

transcendental aesthetic, in Kant's "Critique of Pure Reason," the first part, treating of time and space as the logical [illegible]

[illegible] to the [illegible] and underlying [illegible] — t. school, the group of New England thinkers of whom Ralph Waldo Emerson was leader, Thoreau, Alcott, Ripley, and Margaret Fuller were prominent members. — t. unity of apperception, *Kantianism*, the unity of the elements of sense effected by apperception on the part of the ego, the elements of experience being united by the synthetic act of the ego.

Kant has a technical name for what I have just [illegible] He himself does not use the latter word; he calls the [illegible] and condition of all rational consciousness [illegible] of apperception. [illegible]

tran′scen-den′tal-ism (trăn′sĕn-dĕn′tăl-ĭz'm) [illegible] *transcendantalisme*, G. *transcendentalism* [illegible]
a In the Kantian sense, the [illegible] experience, and ascertaining a priori the [illegible] ciples of human knowledge. Schelling [illegible] absolute identity of the objective and subjective [illegible] knowledge, and consequently the Kantian [illegible] terms *transcendent* and *transcendental* lost [illegible] philosophy; hence, with them, [illegible] a true knowledge of all things, material [illegible] human and divine, so far as the mind is capable [illegible] ing them. And in this sense the word *transcend* [illegible] now most used. It is also sometimes used for [illegible] is vague and illusive in philosophy. b [illegible] which asserts the domination of the [illegible] over the purely empirical; esp., the [illegible] Waldo Emerson and his followers and the [illegible] gious tendencies to which it gave rise, — so [illegible] of a wrongly supposed relation to Kant's philosophy.
2. Quality of being transcendental, or fanciful [illegible] tive; hence, ambitious vagueness, as in the [illegible] or diction.

tran′scen-den′tal-ist, n. A believer in [illegible]

tran′scen-den-tal′i-ty (-dĕn-tăl′ĭ-tĭ), n. [illegible] of being transcendental.

trans-con′ti-nen′tal (trăns-kŏn′tĭ-nĕn′tăl), a. [illegible] or going across a continent.

tran-scribe′ (trăn-skrīb′), v. t.; -SCRIBED′ [illegible] -SCRIB′ING (-skrīb′ĭng). [L. *transcribere*, [illegible] *trans* + *scribere* to write. See SCRIBE.] 1. [illegible] of; to copy; as, to transcribe Livy; to [illegible]
2. *Music.* To make a transcription of. See [illegible]

tran′script (trăn′skrĭpt), n. [L. *transcriptum*, [illegible] of *transcribere*. See TRANSCRIBE.] 1. [illegible] been transcribed; a written copy.

The decalogue of Moses was but a transcript [illegible]

2. Hence, a copy of any kind; an imitation.

Syn. — See DUPLICATE.

tran-scrip′tion (trăn-skrĭp′shŭn), n. [Cf. F. [illegible] L. *transcriptio* a transfer.] 1. Act or process of [illegible] ing; as, errors in a text due to *transcription*.
2. A copy; transcript.
3. *Music.* An arrangement of a composition, often [illegible] some liberty in modification or embellishment [illegible] other instrument or voice than that for which [illegible] nally written, as the translating of a song, a violin [illegible] mental quartet, or even an orchestral work, into a piece for the piano; an adaptation; arrangement.

trans-cur′rent (trăns-kŭr′ĕnt), a. [L. *transcurrens*, *-entis*, p. pr., running across.] Extending transversely. — **trans-cur′rent-ly**, adv.

tran-sect′ (trăn-sĕkt′), v. t.; TRAN-SECT′ED; TRAN-SECT′ING. [*trans-* + L. *secare*, *sectum*, to cut.] To cut across or transversely. — **tran-sec′tion** (-sĕk′shŭn), n.

tran-sen′na (trăn-sĕn′ȧ), n.; *pl.* -NÆ (-ē). [L., net, lattice work.] *Early Christian Arch.* A lattice or screen of stone or metal inclosing and protecting a shrine.

tran′sept (trăn′sĕpt), n. [*trans-* + L. *septum*, *saeptum*, an inclosure. See SEPTUM.] *Arch.* The transverse part of a cruciform church, which crosses at right angles to the greatest length, and between the nave and the apse or choir. In the basilicas this had often no projection at its ends. In Gothic churches these project greatly, and should be called the *arms* of the transept. But it is common to speak of the arms as the *transepts*. — **tran-sep′tal** (trăn-sĕp′tăl), a.

tran′se-unt (trăn′sē-ŭnt), a. [L. *transiens*, *-euntis*, p. pr. of *transire* to go over. Cf. TRANSIENT.] Passing from one [illegible]

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tram′pel-en. ◊ TRAMPLE.
tramp′er, n. 1. One who tramps; a vagrant. [Colloq.] 2. *pl.* The feet; also, heavy [illegible]
tramp′ess, n. A female tramp.
tramp′ish, a. See -ISH b.
tram′pil. Trample. *Ref. Sp.*
tram plate. A flat iron plate used as a rail or roadway for trams, esp. one with an outer flange. Cf. RAIL PLATE.
tram′pled. Trampled. *Ref. Sp.*
tram′pler [illegible] one who tramples. [illegible]
[illegible]

of *transect*, p. p. *Rare.*
tranch. ◊ TRENCH.
tran chant′ [illegible]
tran′chant [illegible] [F.] Trenchant; cutting. *Obs.*
tran′chole, n. [F.] A trencher.
tran′del, n. [Cf. G. *marketender*, fr. It. *vivandiere* merchant.] A camp follower. *Obs.*
trane. ◊ TRAIN.
[illegible]

march; to shift one's position quickly. *Obs. Scot.*
tran′quil, n. Tranquillity. *Obs.*
tran-quil′i-ty, **tran-quil′li-ty** [illegible] To tranquilize. *Obs.*
tran′quil-iz′er, **-quil-liz′er** (trăn′kwĭl-īz′ẽr), n. One that tranquilizes.
[illegible]

trans-ap′i-cal, a. At right angles to the apical axis or plane.
trans-ap′pa-lach′i-an, a. See TRANS-, 1 a.
trans-ap′pa-rent, a. [See TRANSPARENT.] Permitting the passage of sound. *Rare.*
trans′bai-kal′i-an [illegible] Pert. to the part of Siberia east of Lake Baikal.
[illegible]

trans-cend′i-ble, a. See -ABLE.
tran-scen′sion (trăn-sĕn′shŭn), n. [See TRANSCEND.] A transcending. *Obs.*
tran′scens, n. Transcendent. *Obs.*
trans-change′, v. t. To transform. *Obs.* — **trans-change′er**, n. *Obs.*
trans′co-late [illegible]
[illegible]

R. — [illegible]
trans′cript, n. (OF.) [illegible] script. *Obs.*
trans-cur′ [illegible] *transcurrere*, *transcursum*.] To run or rove to and fro. *Obs.*
trans-cur′rence [illegible]
trans-cur′sion [illegible]
trans-di′a-lect, v. t. [*trans-* + *dialect*.] To translate from one dialect into another.
[illegible]

Merriam-Webster's Collegiate® Dictionary

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…at·lan·tic \ˌtran(t)s-at-ˈlan-tik, ˌtranz-\ *adj* (1779) 1 **a** : crossing or extending across the Atlantic Ocean ⟨a ~ cable⟩ **b** : relating to or involving crossing the Atlantic Ocean ⟨~ air fares⟩ 2 **a** : situated or originating from beyond the Atlantic Ocean **b** : of, relating to, or involving countries on both sides of the Atlantic Ocean and esp. the U.S. and Great Britain ⟨~ cooperation⟩

…ax·le \tran(t)s-ˈak-səl, tranz-\ *n* [*transmission* + *axle*] (1958) : a unit that consists of a combination of transmission and front axle used in front-wheel-drive automobiles

…ceiv·er \tran(t)-ˈsē-vər\ *n* [*transmitter* + *receiver*] (1934) : a transmitter-receiver that uses many of the same components for transmission and reception

…scend \tran(t)-ˈsend\ *vb* [ME, fr. L *transcendere* to climb across, transcend, fr. *trans-* + *scandere* to climb — more at SCAN] *vt* (14c) 1 **a** : to rise above or go beyond the limits of **b** : to triumph over the negative or restrictive aspects of : OVERCOME **c** : to be prior to, beyond, and above (the universe or material existence) 2 : to outstrip or outdo in some attribute, quality, or power ~ *vi* : to rise above or extend notably beyond ordinary limits *syn* see EXCEED

…scen·dence \-ˈsen-dən(t)s\ *n* (1601) : the quality or state of being transcendent

…scen·den·cy \-dən(t)-sē\ *n* (1615) : TRANSCENDENCE

…scen·dent \-dənt\ *adj* [L *transcendent-*, *transcendens*, prp. of *transcendere*] (1598) 1 **a** : exceeding usual limits : SURPASSING **b** : extending or lying beyond the limits of ordinary experience **c** *in Kantian philosophy* : being beyond the limits of all possible experience and knowledge 2 : being beyond comprehension 3 : transcending the universe or material existence — **tran·scen·dent·ly** *adv*

…scen·den·tal \ˌtran(t)-ˌsen-ˈden-tᵊl, -sən-\ *adj* (1624) 1 **a** : TRANSCENDENT 1b **b** : SUPERNATURAL **c** : ABSTRUSE, ABSTRACT **d** : of or relating to transcendentalism 2 **a** : incapable of being the root of an algebraic equation with rational coefficients ⟨π is a ~ number⟩ **b** : being, involving, or representing a function (as sin *x*, log *x*, e^x) that cannot be expressed by a finite number of algebraic operations ⟨~ curves⟩ 3 *in Kantian philosophy* **a** : of or relating to experience as determined by the mind's makeup **b** : transcending experience but not human knowledge 4 : TRANSCENDENT 1a — **tran·scen·den·tal·ly** *adv*

…scen·den·tal·ism \-tᵊl-ˌi-zəm\ *n* (1803) 1 : a philosophy that emphasizes the a priori conditions of knowledge and experience or the unknowable character of ultimate reality or that emphasizes the transcendent as the fundamental reality 2 : a philosophy that asserts the primacy of the spiritual and transcendental over the material and empirical 3 : the quality or state of being transcendental; *esp* : visionary idealism — **tran·scen·den·tal·ist** \-tᵊl-ist\ *adj or n*

…scendental meditation *n* (1966) : a technique of meditation in which a mantra is chanted in order to foster calm, creativity, and spiritual well-being

…con·ti·nen·tal \ˌtran(t)s-ˌkän-tᵊn-ˈen-tᵊl, ˌtranz-\ *adj* (1853) : extending or going across a continent ⟨a ~ railroad⟩

…scribe \tran(t)-ˈskrīb\ *vt* **tran·scribed; tran·scrib·ing** [L *transcribere*, fr. *trans-* + *scribere* to write — more at SCRIBE] (1552) 1 **a** : to make a written copy of **b** : to make a copy of (dictated or recorded matter) in longhand or on a machine (as a typewriter) **c** : to paraphrase or summarize in writing **d** : WRITE DOWN, RECORD 2 **a** : to represent (speech sounds) by means of phonetic symbols **b** : TRANSLATE 2a **c** : to transfer (data) from one recording form to another **d** : to record (as on magnetic tape) for later broadcast 3 : to make a musical transcription of 4 : to cause (as DNA) to undergo genetic transcription — **tran·scrib·er** *n*

…script \ˈtran(t)-ˌskript\ *n* [ME, fr. ML *transcriptum*, fr. L, neut. of *transcriptus*, pp. of *transcribere*] (14c) 1 **a** : a written, printed, or typed copy; *esp* : a usu. typewritten copy of dictated or recorded material **b** : an official or legal and often published copy ⟨a court reporter's ~⟩ *esp* : an official copy of a student's educational record 2 : a representation (as of experience) in an art form 3 : a sequence of RNA produced by transcription from a DNA template

…scrip·tase \tran-ˈskrip-ˌtās, -ˌtāz\ *n* [*transcription* + *-ase*] (1963) : RNA POLYMERASE; *also* : REVERSE TRANSCRIPTASE

…scrip·tion \tran(t)-ˈskrip-shən\ *n* (1598) 1 : an act, process, or instance of transcribing 2 : COPY, TRANSCRIPT: as **a** : an arrangement of a musical composition for some instrument or voice other than the original **b** : a recording (as on magnetic tape) made esp. for use in radio broadcasting 3 : the process of constructing a messenger RNA molecule using a DNA molecule as a template with resulting transfer of genetic information to the messenger RNA — compare TRANSLATION, REVERSE TRANSCRIPTION — **tran·scrip·tion·al** \-shnəl, -shə-nᵊl\ *adj* — **tran·scrip·tion·al·ly** *adv*

…scrip·tion·ist \-shə-nist\ *n* (1963) : one that transcribes; *esp* : a typist who transcribes dictated medical reports

…cul·tur·al \tran(t)s-ˈkəl-chə-rəl, tranz-, -ˈkəlch-rəl\ *adj* (1951) : involving, encompassing, or extending across two or more cultures ⟨~ problems⟩

…cu·ta·ne·ous \ˌtran(t)s-kyu̇-ˈtā-nē-əs\ *adj* (ca. 1941) : passing, entering, or made by penetration through the skin ⟨~ infection⟩ ⟨~ inoculation⟩

…der·mal \tran(t)s-ˈdər-məl, tranz-\ *adj* (1944) : relating to, being, or supplying a medication in a form for absorption through the skin into the bloodstream ⟨~ drug delivery⟩ ⟨~ nitroglycerin⟩ ⟨~ nicotine patch⟩

…dis·ci·plin·ary \-ˈdi-sə-plə-ˌner-ē\ *adj* (1948) : INTERDISCIPLINARY

…duce \tran(t)s-ˈdüs, tranz-, -ˈdyüs\ *vt* **trans·duced; trans·duc·ing** [L *transducere* to lead across, transfer, fr. *trans-* + *ducere* to lead — more at TOW] (1947) 1 : to convert (as energy or a message) into another form ⟨essentially sense organs ~ physical energy into a nervous signal⟩ 2 : to bring about the transfer of (as a gene) from one microorganism to another by means of a viral agent

…duc·er \-ˈdü-sər, -ˈdyü-\ *n* (1924) : a device that is actuated by power from one system and supplies power usu. in another form to a second system ⟨a loudspeaker is a ~ that transforms electrical signals into sound energy⟩

…duc·tion \-ˈdək-shən\ *n* [L *transducere*] (1947) : the action or process of transducing; *esp* : the transfer of genetic determinants from one microorganism to another by a viral agent (as a bacteriophage) — **trans·duc·tant** \-tənt\ *n* — **trans·duc·tion·al** \-shnəl, -shə-nᵊl\ *adj*

[1]**tran·sect** \tran(t)-ˈsekt\ *vt* [*trans-* + *intersect*] (1634) : to cut transversely — **tran·sec·tion** \-ˈsek-shən\ *n*

[2]**tran·sect** \ˈtran(t)-ˌsekt\ *n* (1905) : a sample area (as of vegetation) usu. in the form of a long continuous strip

tran·sept \ˈtran(t)-ˌsept\ *n* [NL *transeptum*, fr. L *trans-* + *septum*, *saeptum* enclosure, wall] (ca. 1542) : the part of a cruciform church that crosses at right angles to the greatest length between the nave and the apse or choir; *also* : either of the projecting ends of a transept — **tran·sep·tal** \tran(t)-ˈsep-tᵊl\ *adj*

trans·fec·tion \tran(t)s-ˈfek-shən, tranz-\ *n* [*trans-* + *infection*] (1964) : infection of a cell with isolated viral nucleic acid followed by production of the complete virus in the cell; *also* : the incorporation of exogenous DNA into a cell — **trans·fect** \-ˈfekt\ *vt*

[1]**trans·fer** \tran(t)s-ˈfər, ˈtran(t)s-,\ *vb* **trans·ferred; trans·fer·ring** [ME *transferren*, fr. L *transferre*, fr. *trans-* + *ferre* to carry — more at BEAR] *vt* (14c) 1 **a** : to convey from one person, place, or situation to another : TRANSPORT **b** : to cause to pass from one to another : TRANSMIT **c** : TRANSFORM, CHANGE 2 : to make over the possession or control of : CONVEY 3 : to print or otherwise copy from one surface to another by contact ~ *vi* 1 : to move to a different place, region, or situation; *esp* : to withdraw from one educational institution to enroll at another 2 : to change from one vehicle or transportation line to another — **trans·fer·abil·i·ty** \(ˌ)tran(t)s-ˌfər-ə-ˈbi-lə-tē\ *n* — **trans·fer·able** *also* **trans·fer·ra·ble** \tran(t)s-ˈfər-ə-bəl\ *adj* — **trans·fer·al** \-əl\ *n* — **trans·fer·rer** \-ər\ *n*

[2]**trans·fer** \ˈtran(t)s-ˌfər\ *n* (1674) 1 **a** : conveyance of right, title, or interest in real or personal property from one person to another **b** : removal or acquisition of property by mere delivery with intent to transfer title 2 **a** : an act, process, or instance of transferring : TRANSFERENCE 2 **b** : the carryover or generalization of learned responses from one type of situation to another 3 : one that transfers or is transferred; *esp* : a graphic image transferred by contact from one surface to another 4 : a place where a transfer is made (as of trains to ferries or as where one form of power is changed to another) 5 : a ticket entitling a passenger on a public conveyance to continue the trip on another route

trans·fer·ase \ˈtran(t)s-(ˌ)fər-ˌās, -ˌāz\ *n* (1948) : an enzyme that promotes transfer of a group from one molecule to another

trans·fer·ee \ˌtran(t)s-(ˌ)fər-ˈē\ *n* (ca. 1736) 1 : a person to whom a conveyance is made 2 : one who is transferred

trans·fer·ence \tran(t)s-ˈfər-ən(t)s, ˈtran(t)s-(ˌ)\ *n* (1681) 1 : an act, process, or instance of transferring : CONVEYANCE, TRANSFER 2 : the redirection of feelings and desires and esp. of those unconsciously retained from childhood toward a new object (as a psychoanalyst conducting therapy) — **trans·fer·en·tial** \ˌtran(t)s-fə-ˈren(t)-shəl\ *adj*

transfer factor *n* (1956) : a substance that is produced and secreted by a lymphocyte functioning in cell-mediated immunity and that upon incorporation into a lymphocyte which has not been sensitized confers on it the same immunological specificity as the sensitized cell

trans·fer·or \ˌtran(t)s-(ˌ)fər-ˈȯr\ *n* (1875) : one that conveys a title, right, or property

transfer payment *n* (ca. 1945) 1 : a public expenditure made for a purpose (as unemployment compensation) other than procuring goods or services — usu. used in pl. 2 *pl* : money (as welfare payments) that is received by individuals and that is neither compensation for goods or services currently supplied nor income from investments

trans·fer·rin \tran(t)s-ˈfer-ən\ *n* [*trans-* + L *ferrum* iron] (1947) : a beta globulin in blood plasma capable of combining with ferric ions and transporting iron in the body

transfer RNA \ˈtran(t)s-ˌfər-\ *n* (1961) : a relatively small RNA that transfers a particular amino acid to a growing polypeptide chain at the ribosomal site of protein synthesis during translation — compare MESSENGER RNA

trans·fig·u·ra·tion \(ˌ)tran(t)s-ˌfi-gyə-ˈrā-shən, -gə-\ *n* (14c) 1 **a** : a change in form or appearance : METAMORPHOSIS **b** : an exalting, glorifying, or spiritual change 2 *cap* : August 6 observed as a Christian feast in commemoration of the transfiguration of Christ on a mountaintop in the presence of three disciples

trans·fig·ure \tran(t)s-ˈfi-gyər, *esp Brit* -ˈfi-gər\ *vt* **-ured; -ur·ing** [ME, fr. L *transfigurare*, fr. *trans-* + *figurare* to shape, fashion, fr. *figura* figure] (14c) : to give a new and typically exalted or spiritual appearance to : transform outwardly and usu. for the better *syn* see TRANSFORM

trans·fi·nite \(ˌ)tran(t)s-ˈfī-ˌnīt\ *adj* [G *transfinit*, fr. *trans-* (fr. L) + *finit* finite, fr. L *finitus*] (1902) 1 : going beyond or surpassing any finite number, group, or magnitude 2 : being or relating to cardinal and ordinal numbers of sets with an infinite number of elements

trans·fix \tran(t)s-ˈfiks\ *vt* [L *transfixus*, pp. of *transfigere*, fr. *trans-* + *figere* to fasten, pierce — more at FIX] (1590) 1 : to pierce through with or as if with a pointed weapon : IMPALE 2 : to hold motionless by or as if by piercing — **trans·fix·ion** \-ˈfik-shən\ *n*

[1]**trans·form** \tran(t)s-ˈfȯrm\ *vb* [ME, fr. L *transformare*, fr. *trans-* + *formare* to form, fr. *forma* form] *vt* (14c) 1 **a** : to change in composition or structure **b** : to change the outward form or appearance of **c** : to change in character or condition : CONVERT 2 : to subject to mathematical transformation 3 : to cause (a cell) to undergo genetic transformation ~ *vi* : to become transformed : CHANGE — **trans·form·able** \-ˈfȯr-mə-bəl\ *adj* — **trans·for·ma·tive** \-ˈfȯr-mə-tiv\ *adj*

syn TRANSFORM, METAMORPHOSE, TRANSMUTE, CONVERT, TRANSMOGRIFY, TRANSFIGURE mean to change a thing into a different thing. TRANSFORM implies a major change in form, nature, or function ⟨*transformed* a small company into a corporate giant⟩. METAMORPHOSE suggests an abrupt or startling change induced by or as if by magic or a supernatural power ⟨awkward girls *metamorphosed* into graceful ballerinas⟩. TRANSMUTE implies transforming into a higher element or thing ⟨at-

\ə\ abut \ᵊ\ kitten, F table \ər\ further \a\ ash \ā\ ace \ä\ mop, mar \au̇\ out \ch\ chin \e\ bet \ē\ easy \g\ go \i\ hit \ī\ ice \j\ job \ŋ\ sing \ō\ go \ȯ\ law \ȯi\ boy \th\ thin \t͟h\ the \ü\ loot \u̇\ foot \y\ yet \zh\ vision \à, ḵ, ⁿ, œ, ǣ, ue, ue̅\ see Guide to Pronunciation

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EXHIBIT F

Not Reported in N.W.2d
(Cite as: 1997 WL 33347975 (Mich.App.))

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Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK COURT RULES BEFORE CITING.

Court of Appeals of Michigan.

DETROIT FREE PRESS, Plaintiff-Appellee,
v.
MICHIGAN DEPARTMENT OF STATE, Defendant-Appellant.

No. 188313.

May 16, 1997.

Before: HOEKSTRA, P.J., and MARILYN KELLY and J.B. SULLIVAN, [FN*] JJ.

FN* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

UNPUBLISHED

PER CURIAM.

*1 In this action brought under the Freedom of Information Act (FOIA), M.C.L. § 15.231 *et seq.*; MSA 4.1801(1) *et seq.*, defendant appeals as of right from a grant of summary disposition for plaintiff pursuant to MCR 2.116(C)(9) and (C)(10). The trial court held that defendant violated the FOIA by charging plaintiff approximately $50 million for its request of motorists' records.

Defendant argues that the trial court erred in substituting its determination of the fee to be charged for public records for the fee determination made by the Secretary of State pursuant to Legislative enactment. It asserts that its policies and actions were not arbitrary or capricious. It argues that the trial court erred when it awarded attorney fees to plaintiff after determining that defendant's fee requirement constituted a constructive denial of plaintiff's FOIA request. Finally, defendant argues that the trial court erred in concluding that plaintiff's status as a member of the press entitled it to treatment different from that afforded to other members of the public. We affirm in part, reverse in part and remand.

I

Pursuant to the FOIA, Detroit Free Press staff writer Dan Gillmor requested from defendant a copy of the computer tape containing the records of all Michigan motorists. The Free Press wanted to examine the relationship between accidents, motorists with bad driving records and the manner in which drivers were treated by the judicial system.

Defendant informed Gillmor that the entire file was available for duplication. However, the Free Press would be responsible for the commercial look-up fee of $6.55 for each motorist's record as prescribed by the Legislature. 1990 PA 208, § 904. Because there are approximately 7.6 million records on computer tape, the total charge for the file was $49,770,000.

After plaintiff unsuccessfully attempted to persuade defendant to lower its fees, it filed a complaint alleging that defendant violated the FOIA by arbitrarily and capriciously determining that the fee for plaintiff's information request would be nearly $50 million.

Following cross-motions for summary disposition, the trial court found that the $50 million fee was clearly prohibitive and constituted a constructive denial of the request. The court also found that the information request was for the benefit of the public. It determined that the Legislature's reason for setting the fee for a request at $6.55 a record was unclear and held that the $6.55 charge was not binding on defendant in this case, because the request was for the public's benefit. The court stated that it was attempting to interpret the FOIA in the best interest of the public given the conflict between defendant's authority to charge a look-up fee and the intent of the FOIA to provide the public with government records. However, the court noted that the duplication of the data file would require the creation of a new computer program that could delete confidential information not disclosable under the FOIA. The court directed the parties to arrive at a reasonable fee that would cover

defendant's actual costs in meeting the information request.

*2 Plaintiff filed a motion for entry of judgment, alleging that an independent computer consultant determined that it would cost defendant only $135 to comply with the request. Defendant objected to entry of the order, because it determined the cost for compliance to be $81,600. According to defendant, each record would have to be individually edited in order to delete information that is classified as confidential under the FOIA.

The trial court appointed its own expert, Barry Brickner, to assist in understanding the practicality of creating a computer program that would redact exempt information from disclosure. Brickner estimated that the cost of reprogramming would be $6,080, but recommended that plaintiff not be charged for reprogramming, because defendant had not charged others for it in the past.

Plaintiff filed a renewed motion for entry of judgment. Defendant responded by requesting that plaintiff be charged a reasonable fee of $6,080 for reprogramming, $6,300 for computer time spent running the program and $120 to cover the costs of copying the information.

Based upon the recommendations of Brickner, the court did not charge plaintiff for reprogramming costs. The court found that defendant's reasonable costs for supplying the requested information were $6,420. It also ordered defendant to pay plaintiff's reasonable attorney fees and costs associated with the FOIA request pursuant to M.C.L. § 15.240(4); MSA 4.1801(10)(4), as plaintiff was the prevailing party.

II

First, defendant argues that the trial court improperly substituted its determination of the fee to be charged for that of the Secretary of State. We disagree.

The fee that may be charged by a public body for a request of information under the FOIA is set forth in M.C.L. § 15.234; MSA 4.1801(4), which provides in relevant part, as follows:

> (1) A public body may charge a fee for providing a copy of a public record. Subject to subsection (3), the fee shall be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. Copies of public records may be furnished without charge or at a reduced charge if the public body determines that a waiver or reduction of the fee is in the public interest because furnishing copies of the public record can be considered as primarily benefiting the general public.
>
> * * *
>
> (3) In calculating the costs under subsection (1), a public body may not attribute more than the hourly wage of the lowest paid, full-time, permanent clerical employee of the employing public body to the cost of labor incurred in duplication and mailing and to the cost of examination, review, separation, and deletion. A public body shall utilize the most economical means available for providing copies of public records. A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs. A public body shall establish and publish procedures and guidelines to implement this subsection.
>
> *3 (4) This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or where the amount of the fee for providing a copy of the public record as otherwise specifically provided by an act or statute.

Defendant argues that the fee limitation of the FOIA is inapplicable, because two congressional acts specifically authorize the sale of the registration lists and provide that a fee of $6.55 can be charged for each transaction. First, § 232 of the Motor Vehicle Code provides in pertinent part:

> The secretary of state is hereby authorized to sell, or contract for the sale of, any motor vehicle registration lists in addition to those distributed at no cost under this section and to sell or furnish

> any other information from the records of the department pertaining to the sale, ownership, and operation of motor vehicles. The secretary of state shall fix a reasonable price or charge for the sale of such lists or other information and the proceeds therefrom shall be added to the state highway fund provided for herein. [MCL 257.232 ; MSA 9.1932.]

Moreover, 1990 PA 208, the appropriations bill in effect at the time of the initiation of this suit, provides:

> [T]he department of state may provide a commercial look-up service of motor vehicles, including off-road vehicles and snowmobiles, watercraft, personal identification, and driver records on a fee basis of $6.55 per transaction and use the fee revenue received from the service for necessary expenses as appropriated in section 101. [1990 PA 208, § 904.]

In effect, defendant argues that these two provisions specifically authorize the sale of public records to the public. Therefore, the fee provisions of the FOIA do not apply.

Recently, this Court addressed what constitutes specific authorization under the FOIA. *Grebner v. Clinton Charter Twp,* 216 Mich.App 736; 550 NW2d 265 (1996). In *Grebner,* we held that a primary definition of the word "specific" is "explicit." *Id.* at 743, citing *Random House Webster's College Dictionary,* p 1285, def 1. Because the Michigan Election Law, § 522, provided only for the payment of costs of preparing copies of voter registration records as opposed to their sale, the exception to the FOIA fee restrictions did not apply. *Grebner, supra* at 743.

Here, we agree with defendant that the Motor Vehicle Code explicitly authorizes the sale of motor vehicle registration lists and other information from the motor vehicle records. MCL 257.232; MSA 9.1932. However, we find that the appropriations bill does not explicitly authorize the sale of lists or information. Rather, it states that defendant may provide a look up service and charge a transaction fee of $6.55. This is not the explicit authorization contemplated by the FOIA in order to render inapplicable its cost provisions. *Grebner, supra.* Therefore, we conclude that defendant was not authorized to charge $6.55 per transaction for plaintiff's request. Defendant was permitted, however, to charge a reasonable fee as provided by the Motor Vehicle Code. M.C.L. § 257.232; MSA 9.1932. We agree with the trial court that a $50 million fee is unreasonable.

III

***4** Next, defendant argues that, in determining the reasonableness of the fee, the trial court improperly accepted the opinion of the court appointed expert, Brickner, when it failed to charge plaintiff a fee for reprogramming defendant's computers to comply with the request. Defendant argues that there was a genuine issue of material fact as to whether a fee had been routinely charged for this service in the past.

Plaintiff's motion for summary disposition was granted pursuant to MCR 2.116(C)(9) and (C)(10). It appears, however, that this precise issue was decided under MCR 2.116(C)(10) as the trial court found no genuine issue of material fact as to whether defendant had routinely charged others for reprogramming the computer. A motion under this section is not proper where there is a genuine issue of material fact. *Johnson v. Wayne Co,* 213 Mich.App 143, 149; 540 NW2d 66 (1995). We consider the pleadings, affidavits, depositions, admissions and any other documentary evidence in favor of the opposing party. *Id.*

We find that there was a genuine issue of material fact as to whether plaintiff should have been charged the cost for reprogramming defendant's computer to accommodate plaintiff's FOIA request. Brickner opined that plaintiff should not be charged for reprogramming, because defendant had not charged others for it in the past. Brickner based this conclusion on the deposition of Michael Miner, Director Systems Programming Division, Bureau of Information Systems for the state. Miner testified that defendant had not charged its customers for the cost of reprogramming computers.

However, in opposition to Brickner's findings, defendant submitted the affidavit of Robert Walker, the director of the Michigan Bureau of Information Systems. He stated that defendant had previously charged, and still charges, for unique computer programming in order to comply with a request under the FOIA. Walker stated that previously the charge had been paid by the requesting party directly to Unisys, the company that performed the computer programming for the state. Walker related

that plaintiff's request could not be completed using existing programs and that new programming would be required.

The testimony of Walker and Miner creates a genuine issue of material fact as to whether defendant's past and present policy was to charge a requesting party for unique computer programming needed to complete an information request. Therefore, summary disposition was improperly granted to plaintiff with respect to the issue of programming costs. On remand, the issue should be resolved by the trier of fact.

IV

Next, defendant argues that the trial court erred in finding that it constructively denied plaintiff's request. The finding resulted in an improper award of attorney fees to plaintiff. We disagree.

This Court will not set aside findings of fact by the trial court unless they are clearly erroneous. MCL 2.613(C), *Tallman v. Cheboygan Area Schools,* 183 Mich.App 123, 126; 454 NW2d 171 (1990). A finding of fact is not clearly erroneous unless there is no evidence to support it or the review court on the entire record is left with the definite and firm conviction that a mistake has been made. *Tallman, supra.*

***5** Here, the trial court found that, while defendant offered to copy the information for plaintiff, it constructively denied the request because of the exorbitant fee it charged. Applying our standard of review, we find that the court's findings were not clearly erroneous. Defendant could not reasonably expect plaintiff to pay such a high fee in order to receive a copy of the records.

Moreover we find that the trial court properly awarded attorney fees to plaintiff. A trial court must award attorney fees when a party prevails in an action brought under the FOIA. *Yarbrough v. Dep't of Corrections,* 199 Mich.App 180, 186; 501 NW2d 207 (1993). A plaintiff prevails when the action was reasonably necessary to compel the disclosure of the records and the action had a substantial causative effect on the delivery of the information. *Id.*

Here, plaintiff would not have obtained the records without commencing its cause of action, because it was not prepared to pay $50 million for the FOIA request. Plaintiff prevailed in its cause of action and was properly awarded reasonable attorney fees. *Tallman, supra.*

V

Finally, we find no support in the record for defendant's argument that plaintiff received special treatment by the trial court because it is a member of the press. See *In re Midland Publishing, Inc,* 420 Mich. 148, 155 n 7; 362 NW2d 580 (1984). The trial court gave significant weight to its finding that plaintiff's information request was in the public interest and was under the jurisdiction of the FOIA. Based upon the public interest of the request, the trial court determined that the FOIA would be "emasculated" if the normal commercial look-up fee were charged for each driver's record. Because plaintiff was not given inappropriate treatment, defendant's argument is without merit. Furthermore, the weight the trial court gave the request was suitable given the legislative intent of the FOIA. *See Clerical-Technical Union of Michigan State University v Bd of Trustees of Michigan State University,* 190 Mich.App 300, 303; 475 NW2d 373 (1991).

Affirmed in part, reversed in part and remanded.

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